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THE
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IN
ONTESTED . . .
LECTIONS. . . .

FOURTH
EDITION



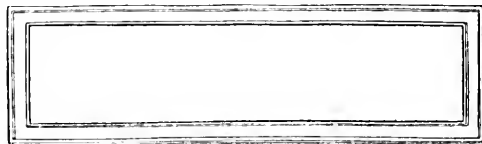
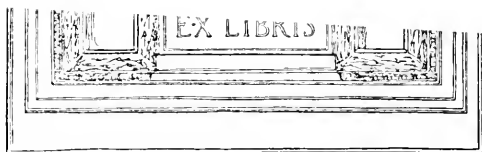
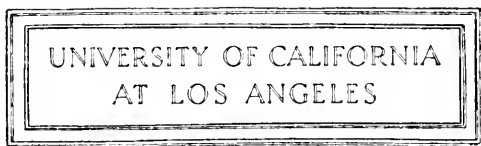
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H. C. RICHARDS, K.C., M.P.  
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THE
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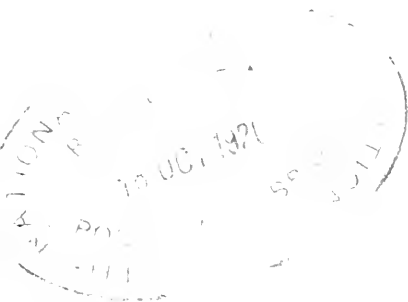
IN
CONTESTED ELECTIONS

BY
H. C. RICHARDS, K.C., M.P.
F.S.A., F.R.H.S.

FOURTH EDITION

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PREFACE TO THE FOURTH EDITION.

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IN VIEW of the present state of Political Parties in the House of Commons and the Country, and with the prospect before us of a General Election in the near future, it has been suggested to me to revise my Manual for the guidance of Candidates, Agents, and Workers before and during a Political Contest. The new Edition comprises the results of my own experience in the Constituencies and as a Practising Barrister, and I hope that the book may be of assistance to those for whom it is intended, and especially that it may be the means of saving Candidates and their Agents from the pitfalls which local enthusiasm and lack of legal knowledge may otherwise lead them into.

In preparing the Fourth Edition I have found it necessary to add new chapters on the Amending Act of Lord James (passed in 1895 in order to protect Candidates from "lying statements"), and on the County Councils Elections to be held in March next, and to review the series of decisions which were given by the Election Judges in England and Scotland in Petitions arising out of the General Election of 1895.

Marks of Distinction have now gone beyond Hat Cards, and, if the House of Lords cannot yet define "a place," I think we know what a Banner is, and how far Political

Education may be dissevered from Personal Candidature, and how much of the expense of such "nursing" must be included in the Election Expenses.

The decisions of the Judges at Haggerston with regard to Candidates' Charities should be most carefully studied.

I have to thank Election Agents all over England, and my friends in the Press, for many hints and criticisms after the publication of the last edition of the GUIDE, and I am glad to know that my practical work on Electioneering has been of some use to a large number of persons, both Candidates and Agents.

I am glad also to be able to state that in not one single instance have I to recall advice given in previous editions, or to alter any of the earlier recommendations to Agents and Candidates.

As it is of importance to the Candidate, Agent, and Worker to be able to refer to statutory authority for what is done or omitted to be done, I have annotated the text of The Corrupt and Illegal Practices Prevention Act, 1883, which my Publishers have brought out, with a very full index, as a companion volume to this work.

H. C. RICHARDS.

2 MITRE COURT BUILDINGS, TEMPLE,

1st February, 1904.

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CHAPTER I.

REGISTRATION.

WITHOUT doubt the work of registration in a county division is now as difficult, on account of its size, as the same work is in a London borough on account of its immensity. But in one and the other the great desideratum is to make the unit of organisation as minute as possible. In model lodging-houses and block dwellings it is necessary to have a correspondent in every block, and in the country it is equally necessary to have one in every village; and although it is advisable to retain an efficient Agent for the Registration Courts, the chief work must be done by village correspondents, and as far as possible they should be of the humbler middle or the superior artisan class. The village blacksmith, the schoolmaster, or even the village publican, is much more likely to be able to do the work efficiently and to gauge the politics of any new-comer than the farmer or the resident in a country house.

In one of the most efficiently worked districts of the Home Counties (in which the Unionist majority, which was very small in 1885, was more than doubled at the General Election of 1892, notwithstanding the fact that a large employer of labour contested the division in the

Liberal interest) the following plan of organisation has been adopted for the last fourteen years :—

The paid secretary of the association, residing in the centre of the division, in the month of March cuts up the register for each village, and sends it to the village correspondent, with a request that he will mark the names of those who have come upon the register for the first time, and notify if any have removed during the previous three months, as of course the new register comes into operation on the 1st day of January. A month or six weeks is allowed for this purpose, and in May these sheets are returned and checked with the register at the central office, and, so far as can be ascertained, the politics of all new voters upon the list are then marked.

So soon as the Overseers' Lists appear, in July or August, they are cut up in the same way and sent to each village correspondent, and he is asked to compare them with the existing register and state what new names appear on and what old names have disappeared from the January list. He is also requested to state whether the names have been taken off the list on account of deaths or removals. With regard to deaths he is desired to intimate who has taken the house or cottage, and with regard to removals to ascertain if possible the address to which the voter has removed. In many cases, although the address of the voter cannot be given, the name of the new employer for whom he has gone to work is generally forthcoming.

With regard to new names appearing upon the Overseers' List, the village correspondent would inquire how long the new voters have been in the parish, and if possible the

political side to which they belong, and also furnish the secretary with the names of any persons qualified to claim, as well as the names of any of those upon the old list or on the Overseers' List to which objections to their remaining on the register can be made. The village correspondent, with or without the help of a small committee, can generally in one evening go through the lists and furnish the chief agent with all the information as to his district.

The secretary of the association is then enabled to go through the old list and the Overseers' List, and to prepare his claims and objections: and so soon as those are ready on the other side, and published, to send wherever necessary to each village correspondent for information as to the objections made by his opponents.

It is true that this process involves a large amount of clerical labour, but it is equally true that without such defined village subdivision no accurate knowledge of the register can be properly obtained.

Where legal gentlemen are employed for the different Registration Courts, they should as far as possible be instructed by the secretary of the association rather than by the village committees, as a secretary or chief agent should be responsible for the information and for the instructions given. It is not sufficient to allow the local solicitors who appear in the Registration Courts to prepare the register by one or two annual visits to the villages in their subdistricts or polling stations.

There is a Bill now before the House which proposes to simplify the London lists, but it cannot be dealt with as one likely to pass this Session.

Organisation and Registration Expenses.

There is one question which candidates and members, especially in Metropolitan districts, must face, and that is the clear division between Registration, Organisation, and Election Expenses. With regard to Organisation, it should, as far as possible, be in the hands of the local association, and the member's contributions should form a fair but not excessive quota of the funds of the association. Where, as in many cases, the member or candidate undertakes to provide the registration expenses, the expenses for that work, which is a legitimate work, should be kept entirely separate from the accounts of the association; and where the registration expenses are wholly borne by the member or candidate, there can be no possible reason why the whole of that account should not be kept separately and vouched for by the sitting member or candidate and by the persons employed by him for registration purposes.

The *dicta* of the Judges at Haggerston, Kennington, Stepney, and in Scotland must be borne in mind, that in the event of an election and registration coming together it is most dangerous to continue the work of registration, as it is almost impossible to discriminate between the two; for it must be remembered that paid canvassers at elections are distinctly illegal, and therefore employment of them nominally as clerks or messengers, but really to continue the work of canvassing, cannot but be an infringement of the law. Neither is it necessary that the canvassing for registration should continue during an election, as the canvass of the latter will be available for registration

purposes. Further, it is equally clear that the books or cards used for registration purposes, and the information acquired in or through them, must be either transferred by copying the books alone used for registration purposes, or, if the same books are used for election as for registration purposes (which is very unadvisable), a fair and reasonable sum must be paid to the association which furnishes them, and this must be included in the candidate's election expenses. It is better, for every reason, that the association should be repaid; and, similarly, where envelopes have been addressed to persons on the register and are used for the election they too must be returned as election expenses, and not debited to the general funds of the association or included in registration expenses.

Voting Qualification.

There are four qualifications which may be described as specially peculiar to the county franchise. They are as follows:—

1. A freehold estate of 40s. per annum or upwards.
2. A copyhold estate of the annual value of £5.
3. A leasehold for twenty years at £50, or for sixty years at £5 annual value.
4. The £10 per annum franchise.

Here it will be found that in counties and boroughs alike the qualifications upon which most claims will be based are as follows:—

The occupation of land or premises of the clear annual value of £10.

The occupation of *any* dwelling house.

The occupation of unfurnished lodgings of the annual value of £10.

There are some freehold offices which entitle the occupants to a vote as a right, but the office must be one the profits of which arise from land itself. In a few cases Dissenting ministers possess a freehold, but these are very old, and can only arise upon special provisions of the trust deed at a particular place. The 40s. freehold still survives as the oldest form of franchise, but to entitle the possessor to keep his name on the register the annual value must be 40s. clear of all charges.

The most common and necessary qualifications to be considered for the county and borough franchise alike are as follows:—

The occupation of a dwelling-house.

The occupation of land, house, warehouse, counting-house, shop, or other building, either by itself or with some or any land in the borough or county, of the clear annual value of £10.

“ Tenement ” may include and properly describe a warehouse, counting-house, or stable, with a room over for the use of the coachman, by the word “ house,” “ shop,” or “ warehouse.”

With regard to occupiers in boroughs, the residence or the occupation for twelve months previous to the 15th July must have been within the borough itself or within a distance of seven miles in a straight line from any part of it. Electors of the City of London are allowed to live

within twenty-five miles; but in the county franchise no such restriction as to distance applies.

So long as the premises are rated, and the rates are paid up to the 5th January, it is not necessary that the occupier should be rated, but the occupation must be for twelve months prior to the 15th July in that year.

In old boroughs, which are now divided under the Redistribution Act of 1884, a voter can only vote in one division, although he may be qualified in several, and he is only entitled to vote in the division for which he is registered for his place of abode. In counties, however, where the county is broken up into divisions, a voter (if entitled) may vote in each division.

Joint Occupation.

Claims can be made for joint occupations in boroughs for as many occupiers as will give a clear value of £10 for each claimant; but in counties only two persons are entitled to be so registered upon a joint occupation, unless they are carrying on business in partnership, or the property has come to them by descent, succession, marriage, or bequest.

Successive Occupation.

In the case of a dwelling house, successive occupation in a county or borough will preserve the qualification, or, in the case of the £10 franchise, so long as the new holding is of the requisite value and the removal from one place to the other direct. A claim must be filed specifying the necessary details of the successive occupation.

Where the voter has removed to another district in the same county, of course a claim can be made for successive occupation. One of the chief objects in tracing removals is to see that a voter makes a claim for successive occupation in the district in which he has gone to reside; but if the removal is traced, the presence of a voter at an election which may take place within the following six months, when his name would still be upon the register, is secured.

Overseers' Lists.

There are some specific details which it would be well that all connected with registration work should have definitely placed before them. It is the duty of overseers, during the months of April and May, to make all necessary inquiries as to the occupiers of the district of which they have to prepare the register.

On the 20th June the overseers for the parishes in counties are compelled to publish on the church and chapel doors the then existing register for their parish, with the names of the freeholders, leaseholders, and copyholders who are at that date entitled to vote for the respective qualifications. Between the 20th June and 20th July all persons whose names do not appear in these lists, and who, as freeholders, have possessed *six* months' qualification, and copyholders with *six* months' possession, dating respectively from the 15th January in that year, and leaseholders with *twelve* months' qualification from 15th July in the preceding year, should send in their claims to the overseers. Of course it is the duty of the registration

committee (where there is one) and the registration agents in each district to see that this work is carried out, and to furnish qualified individuals with the necessary forms.

Lodgers who are already on the current register (and who form a very important part of the electorate in the boroughs) have to send in their claims to the overseers every year on or before the 25th July; and to retain their qualification it is necessary that they should be still occupying the same lodgings for which they were qualified the year before. New lodgers must send in their claims between the 1st and 20th August.

On or before the 31st July all county overseers are required to make out lists of ownership and old lodger claims which have been served upon them up to the 20th of that month, and of the inhabitant and £10 occupiers. In boroughs the overseers' duties (except in the case of ownership claimants) are the same. In the case of a dwelling house there is no restriction as to value; but all parties, to be qualified, must have occupied for *twelve* months previous to the 15th July, and all rates and taxes due before the 5th January must be paid before the 20th July.

On the 1st August it is the duty of the overseers to publish lists of—

- (a) Occupiers entitled to the Parliamentary and Municipal franchise;
- (b) Persons entitled to the Municipal franchise only (which includes women householders), the Parliamentary franchise, and the old lodgers' list;

- (c) Persons who are scheduled for being guilty of corrupt and illegal practices.

Between this date and the 20th August all claims to be placed upon the occupiers' list or the new lodgers' list must be served upon the overseers, and any voter who is objected to must be served with a notice of objection in the form prescribed and by registered letter, a copy of which notice of objection must also be sent to the overseers of the parish in which the property or premises are situate upon which the voter or elector claims to have his vote.

On the 25th August it is the duty of the overseers to publish the list of the persons objected to, and the list of all persons claiming up to the 20th August, and to send copies of such lists to the clerk of the county council, or the town clerk in a borough, for the purpose of being laid before the Revising Barrister appointed by Her Majesty's Judges.

Distinction between Lodgers and Occupiers.

It is well that all persons engaged in registration work should carefully study the different forms as well as the various classes of qualification mentioned. The forms used for lodgers are not the same as those used for occupiers of premises. The necessary forms are set out in the Order of Council of the 2nd March, 1889, and they differ slightly from those given in the Schedules to the Registration Act of 1885. There is a proviso that "A disregard of any form of instruction shall not invalidate any list, notice, or other thing."

The distinction between a lodger and a householder was carefully considered by the Court of Appeal in 1882, and the Master of the Rolls held that each case must be dealt with on its merits, and gave the two following illustrations, which will serve for the guidance of registration workers and agents as to the form in which the claims should be made up:—

1. Where the landlord resided on the premises, and did not let out the staircases, passages, &c., but gave the inmates merely the right of ingress and egress, retaining a right to interfere in some sense, and a right to turn out trespassers &c., the landlord was the occupying tenant and the inmates *lodgers*.
2. Where the landlord let out the whole house in separate apartments, and let out each floor separately, so that a right of ingress and egress was given to tenants of upper floors over the lower staircase &c., and where the landlord retained no control over the house, the inmates were *occupying tenants* capable of being rated.

On the whole the Master of the Rolls made this broad distinction:—Resident Landlord, all inmates *Lodgers*; Non-Resident Landlord, all inmates *Occupiers*.

Lodger Franchise.

The Lodger Franchise (in boroughs especially) requires most careful attention, as the law, though apparently simple, has been the subject of many judicial decisions.

The lodgings, which must be of the annual value of £10 if let unfurnished, must be occupied from the 15th July in the qualifying year, and (although the identical rooms need not be occupied, so long as the change of rooms has been in the same house—provided a claim is made when the time comes for pointing out the change) a removal to any other part of the borough or county will disqualify, a successive occupation outside the house not being admissible.

With regard to furnished rooms, it appears to be a pretty general decision by the revising barristers that five shillings per week will be about the lowest qualification allowed where furniture is provided, and where two or more persons jointly occupy the same lodgings there must be a clear value of £10 per annum for each of such persons. Such claimants must not only occupy jointly, but must be liable for the rent jointly, although it is not necessary that they should always sleep in the rooms, so long as each possesses the power to return, pays the rent, and does actually sleep there when occasion requires.

The question of sons living with their parents is one very necessary for the town agent to have before him. It may generally be laid down that the son must have a separate bedroom; that the room must be for his sole occupation; and that he must have the right of locking the door, as where the house is common to all the family, and the father can change the sleeping rooms, or direct their joint occupation, it is insufficient to qualify the son.

Each revising barrister has a differing rule in London, and often in the country. Every claim should be taken into Court.

Service Franchise.

The Service Franchise, which comes under that of occupation of a dwelling-house, is one which should be very carefully considered, especially with regard to soldiers and the police. Shop assistants occupying separate furnished rooms on the employers' premises when their employers do not inhabit the house are entitled to be registered, although there may be a resident caretaker who exercises a general control over the house on behalf of the employer.

Soldiers occupying separate rooms are entitled to the service franchise, and the residence of a superior officer in the same block does not disentitle the soldier.

Absence at the seat of war will not disqualify any soldier, reservist, or volunteer during the present year.

Coachmen, grooms, and gardeners having a separate occupation in right of their position are entitled to the service franchise, and can claim for successive occupation by reason of their service. In the service franchise a great deal depends upon the view taken by the revising barrister in each district, and it has been held that where two persons, both servants, had rooms in the same block of buildings they were each entitled, as they were independent of one another, although servants of the same public authority, and holding their rooms by right of their office.

Claims by Occupiers.

Too much attention cannot be given to the way in which claims are made and the forms used, and every claim must be filled up with the greatest care.

In the first column the Christian name and surname of the claimant must be set out fully.

In the second column the place of abode must be inserted if there is a settled place of residence; but a claimant is still entitled even if he happen to be of migratory habits, and "travelling abroad" has been held sufficient.

In the third column that which is occupied or possessed must be clearly defined, as "Freehold Land," "Copyhold Land," "Leasehold House," or if a rent charge then as "Freehold Rent-charge"; but claim for the last named can no longer be made unless for the whole of the tithe rent charge.

The fourth column should describe in detail the qualifying property. If the place has a name, the name should be given; if situate in a street, road, lane, or other like place, then not only the name, but the number, if there is one, should also be given.

It is advisable to make out all these claims in duplicate, so that if the overseers omit to publish them, the claimant or agent will be able both to prove the service of the claim on the overseers and the form of the claim itself.

It is not necessary that the claim should be signed by the claimant in person, but it is necessary that it should have been done by his authority. It is certainly advisable that the claimant himself should sign it.

In the case of occupiers of dwelling-houses and occupiers of land, or houses, shops, warehouses, &c., under the £10 franchise, and of occupiers of dwelling-houses under the household franchise, it is the duty of the overseers to include such persons in the list of persons entitled to vote made out by them annually, and which is posted on the doors of the churches and chapels in the parish on the 1st August.

All persons entitled to be included in the overseers' list, but who have been omitted, should send a claim by registered letter to the overseers. The claim must be in the specified form.

The first column must give the name of the claimant in full, the surname first.

The second the claimant's residence.

The third must describe the premises the occupation of which confers the franchise—if under the £10 franchise, as "tenement"; if under the household franchise, as "dwelling-house," except where the occupation confers a municipal vote only, when the £10 occupier should describe the nature of the premises occupied as "shop," "warehouse," &c.

The fourth column must describe the situation of the qualifying premises. If it is for a dwelling-house, of course it will be the same as the second column; if under the £10 franchise, it must state the place where the shop, warehouse, &c., is; where the voter has changed his residence, if he is on for a dwelling-house, or has moved to other business premises; if he is on for a shop, warehouse, &c., he must set out in the fourth column of the

claim the different premises occupied during the qualifying year, beginning with the last premises and going back to the first in the qualifying period: viz. the 15th July to the 15th July in the preceding year.

These claims must be sent to the overseers not later than the 20th August in the qualifying year. Personal attendance or the presence of some person on the claimant's behalf at the Revision Court is advisable to prove the necessary qualification.

Claims by Lodgers.

Lodger claimants have to claim every year. Those already admitted on the list, if they still live in the same lodgings as those which conferred upon them a vote the year previously, may claim after the 15th July and on or before the 25th July.

Those who claim for the first time should send in their claims between the 1st and the 20th August, both dates being inclusive.

It has been decided that the old lodgers already on the list need not attend the Revision Court unless objected to, as the Statute says that the claim, if in proper form, is to be received as *prima facie* evidence of the claimant's right to be registered. The claim is made with a declaration annexed, signed by the lodger and a witness, which, if false, subjects the claimant or his witness to a penalty of twelve months' imprisonment. It is, therefore, most necessary that the claim should be carefully and accurately filled up.

In the first column the claimant's name must be set out in full, the surname first.

The second column must contain a description of the rooms, specifying the floors upon which the rooms are situate, and whether they were taken furnished or unfurnished.

The third column is to contain the address of the lodger.

The fourth column the amount of rent paid per week or per month.

The fifth column must give the name and address of the landlord, or the address of the agent or collector to whom the rent is paid. Usually where the landlord is non-resident the tenant is not a lodger, but an occupier of a "dwelling-house." As, however, the Revising Barrister has power to transfer a claim from the Lodger List to the Occupier List where it is proved to him that the person has made a mistake in claiming under the wrong franchise, and a part of a lodger's qualification consists in his having made a claim as such, it is better, where there is a lodger or an occupier, to claim as a lodger, and leave the Revising Barrister to transfer the name to the Occupier List if he so decides. If the landlord lives in the same house, it will be sufficient to put after his name "Same address."

If the lodgings are jointly occupied, the declaration must have the words inserted "as joint tenant with," the other lodger's name following, and must state in that case what the lodgings are worth: if let unfurnished, £20 per annum or upwards.

The declaration must be signed by the claimant himself. The declaration has to be witnessed by some person who saw the claimant sign it, and the witness should have some knowledge of the facts set out in the claim.

Where the lodger has changed his occupation from one set of rooms to another in the same house, he must set out in the second column what the change was: for example—
“Two rooms on second floor, in succession to one room on first floor.”

In cases where there has been a change of occupation in this way, and the claimant is already on the register, he cannot claim as an old lodger, but must send in his claim between the 1st and 20th of August, both dates being inclusive.

Objections.

With regard to objections, it is necessary that there should be a service of the notice upon the overseer and upon the person (other than a new lodger) objected to. The notice must in all cases distinctly state the ground of objection, and must be signed by the objector; the date and the year must be carefully filled in, and the objector must give his proper place of residence. The notice must be served upon the person objected to personally, or by leaving it at his place of abode or sending it as a registered letter by post, and there is a provision in the Statute by which the postmaster is bound, when the notice is made out in duplicate and taken to the post

office, to stamp both with his date stamp, one being forwarded to the person objected to and the other kept by the person making the objection. The production of this duplicate of the postmaster is evidence of the proof of service on the person to whom it was addressed. Where houses are empty it is most necessary that the notice should not be left personally, but sent by registered letter; and in counties where objection is made to a person on the list who resides out of the parish, it is necessary to serve a notice of objection upon the occupying tenant.

There are a good many grounds of objection, which may be generally summarised by the following descriptions :—

That the person is under age.

That the person is not of the male sex.

That he is an alien, and not a naturalised British subject.

That the person named in the list is dead.

That he has parted with the property which was his qualification.

That he has been found to be of unsound mind.

That the property is not of sufficient value.

That he is no longer tenant of the qualifying property.

That he has been made a bankrupt, and that the trustee in bankruptcy has elected to take the term of the lease.

And, of course, in the case of freeholds it will be sufficient to show that he was not in possession on the 15th January of the qualifying year.

That the person objected to has not occupied the premises a sufficient length of time.

That he is not owner or tenant, or in boroughs outside the City of London that his residence is beyond seven miles in a straight line from the borough boundary.

That he has received parochial relief (but medical relief alone will not disqualify).

That he has been convicted of perjury, bribery, or some other offence specified by The Corrupt and Illegal Practices Prevention Act, 1883.

That the premises have been sublet, and the occupation reduced below £10.

That the rates and taxes due on the 5th January were not paid before the 20th July.



CHAPTER II.

WHEN DOES A CANDIDATURE COMMENCE ?

THIS question is best answered by the decisions of the Judges in the Haggerston and Scotch cases in Chapter X. In the case of a present member, he practically becomes a candidate from the time the association requests him to stand again and he accepts, and meetings are held and work undertaken in view of his candidature at an approaching General Election.

The candidate who is in the position of succeeding to a member of his own party, or of opposing a present member whose seat he desires to obtain, is in a more difficult position, and not only must he read the Acts themselves, but he must study the decisions of the Judges in the election petitions of 1892 and 1895 as illustrating the clauses of the Statutes.

The definition of a candidate is to be found in Section 63 of The Corrupt and Illegal Practices Prevention Act, 1883, as follows :—

Any person elected to serve in Parliament, and any person who is nominated as a candidate, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ, or after the dissolution or vacancy in consequence of which such writ has been issued.

These words, clear though they seem to be, do not, however, prevent election expenses from commencing prior to the

date of the issue of the writ or the announcement of the vacancy. The candidate becomes a candidate by his acceptance of the position, and by the declaration of himself, and that of his party, that he has become such candidate. Whenever a vacancy may arise he has, therefore, to consider, quite apart from the question of personal expenses, what are the expenses which he or the association incurs, and which become part and parcel of his election expenses, and are to be included in the return.

It is clear from the decision of the Judges at Rochester and Haggerston that the cost of any public meeting held in view of an approaching election must be returned as part of the election expenses, although the writ may not have been issued or the actual date of the dissolution announced. To be on the safe side, it seems necessary that the candidate should include in his election expenses the cost of the public meeting or meetings at which he was adopted. For this reason it would be better that after such acceptance and adoption all meetings addressed by him until the active and actual work of the campaign commenced should not include votes of confidence, and should be directed to general political discussion of the special work of organisation in the district.

With regard to personal expenses, they are not limited in amount, and, except that when they exceed £100 they must be paid by the election agent, the Act of 1883 specifies them as the reasonable travelling expenses and the reasonable expenses of living at hotels and elsewhere for the purposes of and in relation to the election. Here, again, we have the suggestion of the Election Judges that

where a house is taken prior to an approaching election, the candidate should return the cost of his living there as part and parcel of his personal expenses, and, of course, the travelling and hotel expenses of and in relation to such election. It is always well to be on the safe side, and therefore a candidate should keep an account of such travelling and hotel expenses as he may incur, and so far as possible be able to show what money has been expended by him from the time that he became an accepted candidate. This, of course, does not refer to his charities, nor to his subscriptions to party organisation; but he should keep accounts of all such moneys expended by him, so that in the event of a petition he may be able to satisfy the Election Judges as to the nature of these payments, and that they have not been incurred in relation to any specific election work.

When the time comes for the active work of an election the candidate should, after he has selected his agent, discuss what the various items of expenditure are, place the maximum amount he is allowed to spend in some local bank, and see that all payments from that time are made by cheque and through his election agent.

CHAPTER III.

CHOICE OF ELECTION AGENT.

I CANNOT advise the appointment of an Election Agent too long beforehand, though no doubt the candidate should as soon as possible look about in the constituency for a local man whom he can trust to undertake those duties. First and foremost, there is no doubt that the paid agent of the party, if he can be relied upon for discretion, and is able to devote the whole of his time to election work, should have the opportunity of accepting the post, because a man who is in touch with the local workers, and has the details of the organisation at his fingers' ends, can naturally work with greater efficiency and with more general local experience than a stranger, however talented he may be.

But the candidate must be guided by other considerations than those of general experience or the popularity of a particular person or party agent. He must consider whether the paid agent possesses the legal knowledge, tact, and skill to undertake the work, and whether he can rely upon him not to infringe, through ignorance or inadvertence, any of the provisions of the Corrupt Practices Acts. Moreover, he should ascertain whether the agent's conduct in

the work of organisation has been such that by appointing him election agent he would not adopt or be held responsible for any past acts of the agent which might be held to be "corrupt or illegal practices." As the Judges pointed out at Hexham, mere ignorance, or accepting without inquiry, will not screen the candidate from the acts of his agent or agents. The candidate must, so far as he possibly can, see that all payments made have been *bond fide*, and, so far as he can judge on inquiry, that nothing irregular or illegal has been undertaken.

In the Chapter on "POLITICAL CLUBS AND THE PRIMROSE LEAGUE" (see page 63, *post*) the question of subscriptions to party societies will be dealt with. Such subscriptions need not come under the head of "Election Expenses," but a record should be kept of all the money paid among the constituency for party work, although since the Plymouth petition of 1880 charitable subscriptions have seldom been called into account.

There is no doubt that both in town and country a personal canvass on the part of the candidate is of great importance. But such canvass to be effectual must be systematic, and the candidate can make no greater mistake than to call upon a few persons over and over again. In going into the constituency from time to time his object should always be to make the personal acquaintance of constituents whose acquaintance he had not previously made.

So far as possible the candidate should always be accompanied by one or more friends with local knowledge,

to protect him from traps and pitfalls which may be laid by local opponents, and to assist him with advice and experience when a local question has to be faced or a difficult constituent to be argued with, and, in view of what has happened in election petitions, to be able to disprove any personal charges that have been and may be made against the candidate in the course of his canvass.

In a country constituency, when a candidate goes into a village he should endeavour, before the evening meeting, to be introduced, not only to the clergyman and the squire, but to the farmers, small shopkeepers, and the known supporters of the cause, however humble they may be. At the meeting a few cheery words as the voters enter the room, or as they leave it, without actually asking them for their votes, is of great use; and very often a candidate will find that it is better to be without a chairman, and to address the meeting in a simple conversational manner, than to risk putting in the chair some local man who may not be popular with the labourers.

It cannot be too strongly impressed upon a candidate, whether for a borough or a division of a county, to try to master local considerations, and to discuss, especially in the country, in the simplest language, the political questions of the hour and the local questions of the county or district.

Appointment of Election Agent in Absence of Candidate.

A question has been submitted to me as to the manner in which an agent could or should be appointed for a candidate who might happen, at the time of election, to be out of England, and whose supporters have secured his nomination. By Section 63 of The Corrupt and Illegal Practices Prevention Act, 1883, a candidate is defined to be "any person who is nominated as a candidate at such election, or is declared by himself or by others to be a candidate." As to the appointment of the agent, it is provided by Section 24 that "on or before the day of nomination at an election a person shall be named by *or on behalf* of each candidate as his agent for such election"; and by Sub-section 3 of that Section "the name and address of the election agent of each candidate shall be declared in writing by the candidate *or some other person on his behalf* to the returning officer." This has recently been exemplified in the Isle of Wight election (May, 1900). Thus some other person may be either the nominator, seconder, or one of the assentors. Provision is also made that where the candidate is abroad at the time of the election he must make his return within fourteen days after his arrival in the United Kingdom. This provision, however, only applies to Parliamentary candidates. A Municipal candidate, if absent from the United Kingdom, must apply for relief to the Divisional Court of the Queen's Bench.

CHAPTER IV.

THE ELECTION AGENT.

UPON the selection of the agent who is to be entrusted with the work of the election it is impossible to exercise too much care, for in several cases Members of Parliament have been unseated merely through the act or omission of the election agent.

The point which naturally arises is whether the paid political agent of a constituency is the best person to conduct the election, or whether there should be two individuals—one to work the local organisation, and the other, who should be a member of the legal profession, for the purposes of the election itself. The political agents who assembled at Newcastle naturally considered, and most candidates would agree with them, that the person who has worked the organisation during the period between elections is the one most cognisant with the wants of each locality, and the one who can enlist with the greatest readiness the personal efforts of the voluntary workers in each ward or village; and the determination of the National Society of Conservative Agents to establish examinations before giving their certificates to new members would certainly show that they recognise as fully as the legal profession the absolute necessity of the acquirement of

a full and complete grasp of the various clauses of the Corrupt Practices Acts, and of the decisions of the Election Judges in cases which have arisen out of the General Elections of 1886, 1892, and 1895.

The requirements of a candidate in regard to his election agent cannot be better set out than in the words of Lord Field in his decision at Barrow-in-Furness:—

If I understand the Act rightly, the object of the Act is that a person should be election agent who shall be effectively responsible for all the acts done in procuring the election. No contract is to be made by anybody but him, because he is a known and responsible man, who can be dealt with afterwards, and who can be looked to for an explanation. The object of the Act was that the responsible man, responsible to the candidate and to the public, should be there to do all that was necessary.

The decisions at Walsall, Hexham, Rochester, and Sunderland have absolutely established the necessity of the agent possessing legal knowledge and personal responsibility, and the wisdom of discriminating between acts which do not compromise individuals, but which compromise the candidate when performed by his agent or by the association of which he is the representative candidate.

It is not necessary to appoint the election agent until a definite idea of the near approach of an election can be obtained. In view of the recommendations of the Election Judges that political associations should be suspended during the actual candidature, it is advisable to consider whether the local association should not be dissolved or temporarily suspended. My opinion is that the former course should be followed until after the election.

It is quite clear that if the permanent responsible paid agent of the party is not employed for election purposes the candidate is free to a great extent from personal responsibility for his acts between the period of the two elections. On the other hand, having due regard to the decisions of what are and what are not election expenses, and the differing views of the Judges as to the period of time when a candidature commences, it is difficult to say what would be the position of an agent who came upon the scene only when the vacancy was announced or the writ issued, and who would have had no control over the expenditure of the association or expenses of the meetings which had been held to promote the return of the Candidate. On this, however, it may be said that, whilst the Judges have given relief with regard to the omission of certain amounts within the return of election expenses which do not exceed the maximum allowed by Act of Parliament, they unseated the Member at Hexham on account of illegal payments made by his agent; and the same thing happened at Rochester, where one of the Judges expressed the opinion that expenses of meetings held nearly two months before the election should have been included in the election expenses.

On the whole, therefore, it is clear that a candidate must consider, first, whether the paid political agent of the party is a man whose absolute reliability can be accepted for previous acts; and, secondly, whether in the appointment of a new legal election agent, the person so appointed would be able to work harmoniously with

those who had hitherto been conducting the political work of the organisation in the district. It is, of course, a matter which each candidate must view from a local and personal standpoint, and the advantage of securing the active co-operation of the existing organisation must be balanced against the danger of past acts of the association or of the workers.

In counties it would be always possible to retain the work of the paid political agents, because the Act of 1883 permits the appointment of sub-agents in each polling district, and there is no limit to the remuneration so long as the maximum is not exceeded.

In boroughs the matter might be a little more difficult, but the retention of the chief secretary or agent could be always effected by employing him as one of the clerks allowed to each polling district, and, of course, in a county he could be retained at the central committee room, for which a separate staff is allowed by the Statute: *e.g.* in the county a central committee room with one clerk and one messenger, and if the number of the electors exceeds 5000 (which in nearly every case it does) one clerk and one messenger for every complete additional 5000 electors in the county.

The agent must remember that before any application for relief can be entertained by the Judges he must show that the mistake or offence against the Act was inadvertent or trivial and *bona fide*, and that the point had not hitherto been judicially decided. It is therefore absolutely clear that every agent should carefully study the decisions under The Corrupt and Illegal Practices Prevention Act, 1883,

which include those given in 1886 and those at Walsall, Hexham, Rochester, Stepney, and Southampton, to which reference is made in another chapter.

Instructions to Agents.

Another danger to be faced—which anyone who has had personal experience of an electoral campaign will realise—is that some of those who are entrusted with the work of the election agent or canvasser may be ignorant of the requirements of the law and what constitute offences under the Corrupt and Illegal Practices Prevention Acts. To guard against this, the candidate should be careful to place in the hands of every person so employed a short summary of the law and of offences under those Act, with instructions to comply with legal requirements, and to see that in all committee rooms, as well as in all canvass books, the instructions are printed and placed before the workers. To use the words of Mr. Justice Vaughan Williams at Rochester:—

It was the intention of the Act of Parliament to draw the strings of the law as tightly round corrupt and illegal practices at elections as they could be; but, at the same time, the law intended Judges to relieve candidates from corrupt and illegal practices where they satisfied the Court that they had done everything on their part to render the election pure and free. The lessons to be gathered from election petitions were, that those who stand for Parliament must feel the full responsibility of personally taking care that those whom they allowed to act as their agents were not guilty of corrupt and illegal practices, and, if they failed to do that, that no relief could be given from the consequences of the acts of others, which by Section 22 of the Act [of 1883] the Judges were otherwise entitled to do.

CHAPTER V.

GENERAL AGENCY.

IN addition to the perils which a candidate runs through the acts of his appointed agent or of the paid political agent of the association or party to which he belongs, he has to consider very carefully what sort of men are placed upon his committee, or what men are to be found at work on the committee of the association which has adopted him. One has only to look at the decision of the Judges at Montgomery, and the report made with regard to the action of two prominent political workers at Rochester, to see how far the doctrine of general agency can be extended.

With regard to the difference of opinion between the Judges in the Montgomery Boroughs, the only reason why Baron Pollock dissented from the view of Mr. Justice Wills that the Vice-President of the Conservative Association was not the agent of the sitting Member, who was then the candidate, was owing simply to the fact that the peculiar habits and position of the alleged agent during the time of the contest (when it appears he was in a general state of drunkenness) point to this fact, that any worker holding such a position would be held to be the agent of the candidate unless the association itself had been dissolved during the active part of the candidature.

With regard to the decision at Rochester in 1892, it should be remembered that the two gentlemen who were returned as guilty of corrupt treating, and who were condemned to pay the costs of the Public Prosecutor as far as the expenses of their acts were concerned (although they obtained certificates of indemnity), were two active members of the Constitutional Association, who attended a Liberal meeting and treated the voters returning from that gathering. At Lichfield it was two members of the Liberal organisation who treated at public-house bars during the contest.

It has well been pointed out by Mr. Justice Vaughan Williams that, given the treating, the onus to show that it was not corrupt and not for the purposes of influencing the vote of an individual voter is probably on the person who pays for the food or drink; although Mr. Justice Wills, at Montgomery, said that the mere fact of glasses round at a political club or gathering would not in itself prove corrupt treating by agents on behalf of a candidate.

But the unfortunate position of two of the three unseated members under the petitions arising out of the General Election of 1892 clearly shows the absolute necessity for the most scrupulous care in the choice of a committee for an election, or of canvassers at work with or for the candidate.

In the Election Manual published by the Central Conservative Association it has been well laid down that the term "Agent" *may* under certain circumstances include members of an election committee or voluntary canvassers. It was pointed out at Hexham that the mere non-appointment of the registration agents as sub-agents during the

contest itself would not absolve the member from their acts on the ground that they were not accredited agents of himself, so long as they had been working as agents of the party.

Mr. S. H. Day, who has had much election petition experience, writes the following pregnant sentence in his edition of *Rogers on Elections*:—"It has never yet been distinctly and precisely defined what degree of evidence is required to establish such a relation between the sitting Member and the person guilty of corruption as to constitute agency." Mr. Justice Vaughan Williams has also pointed out that, with regard to members of the Primrose League, although they might not be held to be agents of the candidate, they would, if found guilty of corrupt treating, be reported in the ordinary way, although that might not invalidate the member's return.

Mere canvassing on behalf of a candidate does not establish agency, for at Salisbury Baron Pollock held that canvassing with a book in company with the Respondent and conveying voters to the poll were not in themselves evidence of agency; and Mr. Justice Grove himself decided that there might be cases in which canvassing would not necessarily involve agency. But, generally, canvassing has been held to be strong evidence of agency, and would require a very strong case to rebut it.

Lord Blackburn has gone further, and adds in one of his judgments under the old law:—

I think all one can do is this—that is to say, whenever a person is in any way allowed by a candidate, or has the candidate's sanction, to try and carry on his election and to act for him, there is some evidence to show that he is his agent.

In the Chester case, under the old law, the acts of some of the Liberal Four Hundred were also held to be acts of agency on behalf of the candidates who were accepted and returned by them.

It is therefore more than ever necessary that at the approach of the election the candidate should secure the dissolution or suspension of the political association and of the local habitations of the Primrose League, and if he appoints a committee he should be most careful to select only those whose strict compliance with the letter of the law he may rely on. *Everything points to the desirability that there should be no committee.* It is imperatively necessary in a county election, where the agent has to appoint sub-agents for every polling district, that he should carefully select his men and give them definite instructions as to forbidden payments and acts.

Outside Organisations.

Where licensed victuallers, or any body of traders, fighting for their trade interests, think fit to support a certain candidate, the expenses which they have incurred in promoting (through their own organisations) the claims of a particular person have been held not to come within the necessary election expenses of that candidate, although it was laid down at Walsall that, for the purposes of corrupt treating, the members of an association which had backed the candidature of certain persons might be held to be the agents of those persons. This was especially the case with regard to the Licensed Victuallers' Associations

at Walsall and Stepney, where the question of expenses was discussed, and the Judges held that, as the trade of the licensed victuallers was specifically attacked, they were justified in taking such means as they thought fit to discuss the claims and further the candidature of some particular person, and that expenses incurred by them as a trade were not election expenses which had to be returned by the member or candidate.

Establishing Agency.

In the St. George's-in-the-East Election Petition a most important decision was given on the amount of evidence necessary to establish agency in cases where a candidate, by attending meetings of a Political Association, made the officers of the association his agents. The judicial decision, as given below, speaks for itself:—

In determining the question how far a candidate, by attending the meetings of a political association, makes it or its officers his agents, it is necessary first to enquire what is the object and character of the association. If, for instance, its object be simply to secure the election to Parliament of a particular individual, it would be difficult, if not impossible, for a candidate to take part in its operations without becoming responsible for its acts during the election. Again, if the object of an association be to procure the election of some candidate professing the political views of one of the two great parties which are supposed to divide the opinions entertained by the whole electorate of the country, the candidate, if during an election he attended its meetings, and availed himself of the assistance of the association, would probably be held so to sanction the association acting on his behalf as to constitute the officers of the association his agents.

CHAPTER VI.

SUB-AGENCY.

SUB-AGENTS can only be legally appointed in county districts, where one is allowed for each polling station, and, although the appointment is in the hands of the agent, in cases where a candidate has knowledge of the locality and resides in the neighbourhood he can often point out and suggest men whom he may think suitable for the purpose. A sub-agent need not be a solicitor. There are very often men with knowledge of the district who will be able to get hold of the working men more effectively than the local solicitor, however learned he may be.

Preference should always be given to a sub-agent who can arrange and address village meetings, or who is able to find local workers who will be ready and competent to address such meetings, as at a general election nothing is more difficult than to secure competent speakers from London or from large centres of population.

No sub-agent should be appointed unless he can be relied upon to carry out instructions and not go beyond them, and he should be furnished with some simple manual of his duties. In any difficulty that may arise he should take the advice and act according to the decision of the

principal Election Agent. To prevent the maximum of expenses being exceeded, he should be informed what is the limit he can be allowed for his particular district for printing, postages, holding meetings, clerical assistance, &c.

Every order for goods, or payment for them, should be in writing, as by Section 29 of The Corrupt and Illegal Practices Prevention Act, 1883, a voucher giving particulars and a receipt are required for every payment over forty shillings.

A sub-agent should be specially encouraged to go out into the villages and work them as far as possible, not during the day, but in the evening, by spending one or more evenings in each, and arranging so that during the campaign the candidate can attend three or four meetings within a close range of each other in one evening.

At bye-elections the sub-agent should be instructed to utilise the numerous offers of help which he will receive from the Primrose League, the United Club, and the Central Conservative Association. No matter how small the village, meetings should always be held in order to rebut the speeches made and statements circulated by the other side. Very often the speaker who comes from London will be ready to spend half a day in the village talking with the men themselves, either in the village inn or on the village green, on the subjects which are uppermost in their minds. Too often these offers of help are refused on the grounds that meetings cannot be arranged; but sub-agents should be urged to hold village meetings of however humble

a character, and not to refuse offers of help simply because the candidate is not able to come.

The sub-agent ought to furnish the agent at the county head-quarters with a daily report of the work which is being done, and on no consideration should he leave his district during the campaign.

It is necessary that one clear day before the polling the name and address of every sub-agent should be returned by the Election Agent to the returning officer.

What is a Sub-Agent?

With the exception of the expression of the Judges' opinion at Sunderland on the definition of "Agent for the purpose of publication" under The Corrupt and Illegal Practices Prevention Act, 1895, the only decision to be found on the definition of "Sub-Agent" is that given in the judgment of Lord Kyllachy in the Elgin and Nairn case. Agents who read Lord Kyllachy's definition will realise more fully the desirability of and necessity for a special retainer and definite instructions being given to each sub-agent employed. The following are the material portions of the judgment:—

I do not think there is any definition of the duties of a sub-agent, but it sufficiently appears that he is a person through whom payments may be made at the request of the principal agent. In all other respects his agency seems to be perfectly general. Then a polling agent is defined by a reference to the Ballot Act and to a previous Act of 1843, which is a general enactment applicable to the whole of the United Kingdom. I do not read the section; it was referred to by counsel; and it sufficiently indicates that a polling agent is a person who is to represent the candidate in the polling booth to detect personation.

The only political disability which the Statute applies to any person who is paid for his services is that his right to vote is suspended for that election; but, as I read the Election Acts, the employé is in no way inhibited from using his personal exertions as an elector to influence the votes of other electors; nor, so far as I see, is there any restriction on the right of a paid agent or officer to render services to the candidate such as he may think fitting, except that he cannot be employed in the payment of election expenses unless he is the sub-agent.

But it is right to say, as the point has been raised, that in my opinion the duty of an election agent in regard to payments is that he shall satisfy himself that the account has been justly incurred and fairly charged, and also that the payment must come from himself. But if he performs those duties, I think he may send a messenger, or may ask a friend, who is willing to undertake the duty of a messenger, to carry the money and get the receipt. It is like the case of paying by a cheque, where, of course, the bank pay the money on the authority of an agent, and I should regret it if the statutory provisions of this Act were capable of being worked in a way which would invalidate an election, when there was nothing done of the description which Parliament truly intended to prohibit.

CHAPTER VII.

THE CONTEST.

“WHEN does the contest begin?” This is as difficult a question to answer as “When does a candidature commence?” The only words of guidance formerly to be found were those in the Rochester and Stepney decisions, and even there the Judges laid down no definite rule, except that all expenses should be included in the return of election expenses incurred before “the issue of the writ or declaration of the vacancy,” but after the active campaign had begun. These decisions have, however, been superseded by those given in the Petitions arising out of the General Election of 1895, and the directions are now considerably more explicit.

It is clear, of course, that when a candidate issues his election address and commences a round of meetings to press on his candidature, the law will presume the contest has commenced, and that the expenses then and thereafter incurred must be within the maximum, and returned in the election expenses. But to obviate any difficulty—as has been pointed out before—the candidate should prevent resolutions of confidence being submitted until the actual

campaign has been inaugurated in expectation of an impending vacancy owing to the announcement of a General Election, or even the probable issue of a writ upon known causes.

The contest being thus about to commence, the candidate should at once decide upon his agent, and although it may be advisable not to send his name to the returning officer until the day before the nomination, it is equally clear that the personality of the agent should be decided upon for mutual advice and reliance, and especially for the control and selection of the workers, as it is absolutely necessary that the candidate should not have the invidious task of personal selection and rejection.

Having selected his agent, and the agent having mapped out his plan of campaign generally, it will be necessary to ask and answer one other question—What about the committee? In ninety-nine cases out of a hundred it will be better to have no committee, and so far as possible to secure the formal dissolution or suspension of all political societies within the borough or county division, and to rely upon individual help; for without a doubt the appointment of a committee at once constitutes general and particular agency for each member elected or selected on such a body. Whilst so much of the canvass in town and country alike must depend upon volunteers and volunteer work, neither the candidate nor his agent should deal with associations or habitations, but with individuals, to whom definite instructions should be given; and canvassers' books or cards should contain a plain and simple statement of the law against treating

and other similar offences prohibited by the Corrupt and Illegal Practices Prevention Acts.

Two sets of addressed envelopes should be prepared at the outset for each elector, and if obtained from the party association their cost should be definitely paid for and a return made in the election expenses.

In a borough, and sometimes in small towns in county divisions, it will generally be found that the ladies of the Primrose League and other female friends of the cause will form among themselves a "working party" to address envelopes or direct election literature, and agents and candidates should, as early as possible, arrange in each ward or at a central room for such a "Free Labour Bureau," or to utilise the services of the Church Army, who do such work at their head office in London at reasonable charges.

In counties a number of young non-voters should be organised into a cycle corps for distributing notices of meetings, election literature, and answers to opposition statements, and for quick and direct communication with each village in the constituency. Such volunteers should be assigned to a particular district or route, to include so many villages, and a daily or tri-weekly visitation may be made in the evening with the local sub-agent, and if possible with the village correspondent, who, if need be, should leave any special bill or notice at each house in the village or hamlet. Election literature is read in the country, though it is often wasted by being scattered broadcast in a town.

Meetings.

The list of meetings, both in town and country, should be at once arranged. In a town there should be a dual visit to each ward or subdivided ward mapped out, and in the country the same, if the time be sufficient and the area not too large. But in some way or other the candidate must visit each village before the contest and during the campaign. Even where distances are great, with the aid of two or three voluntary speakers he can hold two or three meetings on each evening; and it is only fair to state from experience that the agricultural labourer will come to hear, and is willing to wait for the candidate's arrival.

A personal invitation on a card, or enclosed in a half-penny envelope, should be directed to each voter. It is a mark of attention which the rural voter especially appreciates, and is far better than any amount of bill-posting, which is expensive, and only saves the sub-agent's direction or delivery. This must be insisted upon as part and parcel of his work in each polling district in counties, and no more fatal mistake can be made than to assign a definite sum to each sub-agent, with the intimation that he must take his fee out of it. A specific sum should be named as the maximum for out-of-pocket expenses.

The meetings should be numerous, short, and so far as possible in different villages or wards nightly: otherwise the same enthusiasts attend evening after evening. Some clerk to the agent or sub-agent should be present at least

fifteen minutes before the hour at which the meeting is timed to commence.

A chairman should be secured in advance, and if there is any fear of hostility or amendments, it is as well not to move a vote of confidence, nor to press the matter of questions too prominently where the candidate is young at electioneering. A vote of thanks to the chairman will generally disarm opposition and prevent some local opponent airing his eloquence at the expense of and in hostility to the party and its candidate. Resolutions of confidence do not win an election, but hard work and persistent canvassing very often will.

The candidate should always be allowed at least a couple of hours every morning to give instructions for replies to letters and to prepare his evening speech, for, although the material may well be the same in a country district, the agent should secure from a local correspondent the local topics to be mentioned or avoided. In a county contest nearly every village has some particular local topic which should be specially or incidentally touched upon at the meeting.

Whenever possible the candidate should have with him a private secretary or some friend to study the daily and local press for telling extracts, ministerial utterances, or local questions, and for attacks to be at once scotched or rebutted.

The agent in the borough and the sub-agent in the county should not only arrange that the candidate is provided with a printed and marked proof of every speech of his opponent, but should secure that at every village

or even local gathering some reliable person should be present, not to ask questions or even to vote hostilely, but to ensure that any slanderous attack upon the candidate is at once reported to the agent, and if it be a local question, that in the village or centre a printed contradiction, signed by the candidate, or by some person of authority, be circulated from house to house. Candidates and agents must not rely on the reports in the local press, however active, as the most telling slanders are very often unreported, from legal and personal considerations.

The sub-agent, or one of his clerks, must live in the villages during the fortnight preceding the election, and sleep at village inns alternate evenings, as it is here of all places where local feeling is aroused and slanders are circulated. The publican, in nine cases out of ten, can tell what is going on, and the doubtful or hostile persons to be watched in each village; but a publican must never be made a sub-agent.

So far as possible, meetings in licensed premises should be avoided, and where such a gathering is inevitable, the candidate's agent should serve the publican with a special form pointing out the penalties as to treating, and the result to the publican and his licence if such offences take place on his premises.

Canvassing.

Unfortunately, canvassing is absolutely necessary both in town and country, and the only advice that can be given generally is that the candidate should always be

accompanied by some of his supporters, in order that he may have witnesses of all transactions, and that local questions and subjects may be discussed before local men. The canvass books or cards (and no doubt the latter system is preferable) should be marked, and all voters returned as doubtful should be seen by another canvasser who has some personal knowledge of the district or personality. No one should be left out if a canvass is once set on foot, as neglect is often likely to lead to hostility or abstention on the part of friends. The canvass books should be checked and their totals ascertained at least once or twice in the week.

As the agent secures day by day the results of the canvass, he should, by reliable and independent persons, again interview specially hostile or apparently too favourable districts.

He should avoid divulging, except to the candidate, the results as they are ascertained, as they may lead to slackness or too great buoyancy of spirit.

Most carefully should each item of expenditure be mapped out beforehand, and scheduled as the canvass progresses, whilst at least £100 should always be kept in hand for unlooked-for contingencies.

Canvassing by Paid Election Clerk.

The question whether a paid election clerk is justified in canvassing is a question which has been often put to me at election times, and, acting upon the opinion of the

present Master of the Rolls when Attorney-General, I have always advised that a paid election clerk may canvass in his spare time, but not as part and parcel of the duties of his office. In the Lichfield Petition Mr. Justice Bruce thus dealt with the facts of the case:—

From the evidence before us I cannot entertain any doubt that Shakeshaft and Cheshire [the paid election clerks] were employed *systematically* in canvassing. Shakeshaft worked in Alrewas and Harlaston. It is said that he was employed as a clerk. Cheshire was employed as a messenger in Armitage.

Several persons who were called as witnesses proved that both Shakeshaft and Cheshire asked for their votes, went about with canvassing books, and acted as canvassers. This evidence might have been explained by showing that the particular acts deposed to *were exceptional and occasional only*.

I cannot help asking myself the question, Who did carry on the canvass? No volunteer canvassers are called, and I find it very difficult to accept the explanation offered.

It will be seen that Mr. Justice Bruce practically confirms the advice given by me, and that so long as the canvassing is not systematic or part of their regular work, but only auxiliary and voluntary, clerks may occasionally and intermittently be so employed. But when no volunteer canvassers work in the district it is inadvisable to pursue such a course.

The Eve of the Polling Day.

The night before the contest each body of workers in town or country should be called together and addressed by the candidate, agent, or sub-agent as to the details of the work on the morrow, and provision made for the

due circulation of vehicles and the bringing to the poll of each promised voter.

The agent should have the key of each committee room on the night before the poll, and personally see to its opening on the day.

The persons employed as counters for checking the ballot papers should make the necessary declaration before the magistrate. So far as possible they should be men upon whose attention and discretion special reliance can be placed, as by care and watchfulness on their part a very good idea can be obtained of the way in which the votes have been cast in wards and districts.

The list of carriages should have been carefully gone through and their places duly allotted. Special care should be taken that they are available from twelve until two, and from five to eight, when the working classes are leaving work. Care should be taken that reliable canvassers or workers are placed with each of the carriages, or the vehicles may be running about the country simply for non-voters' use and enjoyment.

The Polling Day.

The candidate, whether for a borough or county division, should visit each polling station and committee room during the day.

The personation agent should always be a local man, and he should be instructed as to the methods to be used to challenge any doubtful person who may come with a

voter's card, or with the name of a person who is known to have removed, or to be marked on the register as dead.

When a voter whose identity the personation agent has reason to doubt enters the booth, there are certain statutory questions which may be put to the applicant for a voting paper by the returning officer when the vote is challenged by the personation agent. They are—

1. Are you the same person whose name appears as Z., of Street, in the Register of Voters now in force for the borough [*or county*] of ?
2. Have you already voted, either here or elsewhere, at this election for the Borough of , in the County of , either in this or in any other division ?

When the real elector presents himself and it is found that some one has voted in his name, the returning officer will give him a second paper of a different colour, and it will be marked by the presiding officer as a tendered vote.

The question as to its acceptance or rejection must be decided by the returning officer, or in case of scrutiny by the Election Judges.

In the Metropolitan constituencies especially some definite steps must be taken at the General Election to test the men who pour into the constituency between seven and eight o'clock in the evening. The only attempt to check this must be by persons locally acquainted with the streets and the inhabitants. In village polling districts this is of course a very easy matter.

The wall lists should be placed in every committee room, and as fast as the poll proceeds the names should be reported to the committee, and as the votes are recorded struck through in coloured pencil.

It is at the committee rooms that the most reliable of the workers should be placed in command to see that every voter is sent for at the time agreed upon, and that three or four persons are not sent after one person. By careful attention to the voters' list as the day proceeds the trained agent will soon note if in any one district they are polling more slowly or more quickly than in another, and it may be necessary to proceed to such district and ascertain the cause. The most acute attention must be given to the poll and to the working-class districts from six to eight o'clock in the evening.

In boroughs, within a short time of the close of the poll, the candidate and his agent must repair to the counting room, where the checkers who are sworn to secrecy will previously have arrived.

As a rule the votes are generally turned out of the boxes and mixed; sometimes they are simply turned out, and then to an extent the political complexion of the district can be judged. The votes given to each candidate are generally tied in bundles of fifty. Where there is more than one vacancy there is cross-voting, and usually a large number of plumpers. The candidate or his agent should examine each of his opponent's bundles of fifty, and see that there is no intentional or accidental mis-sorting; *e.g.* by placing two or three votes on the top of a bundle bearing the votes of the other side.

If there is any attempt at interference or too much activity or fussiness on the part of partisans in the room, the agent should appeal to the returning officer that none but he and the opposing agent should be allowed to go over or meddle with the papers.

When the votes have been counted, ascertained, and checked, the very important question of disputed votes owing to questionable, marked, and misplaced crosses has to be decided.

Disputed Ballot Papers.

In any case where a scrutiny is likely to be demanded, professional opinion must be sought before a definite decision can be obtained, but there are now several judicial decisions which will be a guide when the result of the election depends upon disputed ballot papers. Generally, the expressed or apparent intention of the voter, so far as he has indicated it, will determine the decision of the Court, as it should of the returning officer; but there are certain omissions which will invalidate a ballot paper, however marked:—

- (a) Wanting the official mark or stamp.
- (b) Unmarked at all.
- (c) Voided by absolute uncertainty.
- (d) Voting for more candidates than entitled to.
- (e) Bearing a writing or mark by which the voter *can* be identified, but not where he *might* be identified.

The official mark must be impressed (however faintly) on each individual ballot paper.

Non-compliance with the rules of the Ballot Act, or any mistake made by a presiding officer, does not in itself void an election, unless such non-compliance or mistake affects the result of the election.

There have been no fresh cases on disputed ballot papers, and the decisions up to 1893 have not been reviewed.

It might be well in any count which is likely to be a close one to be prepared with a "Kodak" to photograph any questionable papers (which are returned by the returning officer to the Crown Office), to submit to counsel or to the authorities at the Central Office before going to the expense of a recount or a scrutiny before the Judges.

The Declaration of the Poll.

The result of the poll is now generally declared either in the room where the votes have been counted, or from some public part of the town or county hall, by the mayor or sheriff or returning officer.

A formal vote of thanks is moved by the successful or senior member, and seconded by the defeated candidate.

Such speeches should always be tolerant and generous on the part of the victors and vanquished. A very few words will do, as, except by the reporters, they are seldom heard by the people generally.

After the Declaration.

The enthusiastic members of both parties usually require speeches at their respective headquarters, when both victors and vanquished can be sure of a quiet and appreciative audience, and where they can enter upon the causes which have won or lost the election.

A simple advertisement of thanks to the workers and all supporters should be put into both party journals, and where expense is not an important matter a letter of thanks might be sent out. It is not necessary to schedule such a letter as one of the election expenses. It is always well—and especially if the defeated candidate intends to come forward again—to send written letters of thanks to the lenders of carriages, the volunteer workers generally, and the local heads of the party. The day after the election the agent should give the necessary statutory notices for the delivery of the election accounts within fourteen days.

CHAPTER VIII.

CHARITY: ITS LIMITS AND ITS DANGERS.

THE question of Charitable Contributions by a Member of Parliament was fully discussed in the Plymouth Petition of 1880, and the opinion that a Member's charity could not be limited, then expressed by Lord Justice Lush, has never yet been challenged. In the Haggerston case, however, Mr. Justice Wright expressed his opinion of the law on the subject—an opinion which, although it did not prevail at that inquiry, owing to a disagreement between the Judges, will, the Author ventures to think, be acted upon in future trials. In the last-mentioned case, which was heard in 1895, cards bearing the name of the candidate, which could afterwards be exchanged for food, had been distributed among the voters of the district generally at a period of great distress; and, as will be seen below, Mr. Justice Wright, in his remarks upon the case, commented somewhat strongly upon this method of distribution:—

At that time in the East of London, and in Shoreditch in particular, there was distress of an exceptional, and even it may be called of an appalling, character.

Now the candidate's birthday occurred on the 7th of February, 1895, and he says it was his habit to do something for charity about

that anniversary, and that upon this occasion it occurred to him to distribute a number of relief tickets, which he intended to be of about the value of ten pounds, exchangeable for food at a place of refreshment called "The Tee-to-tum," and early on Wednesday, the 13th of February, he consulted the manager of that place, and arranged the matter.

This is the letter which appeared in the *Express* :—

"To the Editor of *The Hackney Express and Shoreditch Observer*.

"Sir,—The Unionist candidate for Haggerston has arranged for the distribution of fifty tickets per day to the value of sixpence, which are to be exchanged for a hot meal or groceries at the Shoreditch Town Hall, to be distributed to the most deserving applicants at the Shoreditch Labour Bureau, *preference being given to those residing in Haggerston*. The hundreds who gather outside the town hall is an indication of the privation that exists in the neighbourhood, and Mr. L— has adopted a practical way of alleviating this distress. I shall be glad if you will insert this for the information of the poor of Shoreditch.

"Yours very truly, G. J. PROTHEROE."

The whole tenour of the letter is inconsistent with that, and it is absolutely inconsistent with it to add that last sentence, "I shall be glad if you will insert this for the information of the poor of Shoreditch."

I cannot doubt that Protheroe's motive was a corrupt one, and it seems to me that there is sufficient evidence of the agency of Protheroe for the sitting Member to make it our duty to avoid the election on that ground alone.

Of course no one suggests that there was anything but good in the candidate's subscribing for the relief of these poor people. *If he had simply sent a cheque for even a very much larger sum, and sent it in his own name, and sent it for publication, no one would have said a word.* If he had sent it to the treasurer of the relief fund I should not have inferred any intention to influence votes. But, on the other hand, suppose he had attached sixpence to five hundred cards (private and personal), and distributed them in that way to married residents of Haggerston, and written a letter of that kind in the newspapers, I cannot imagine a judicial doubt that we ought to impute an intention of producing the effect of influencing votes.

It is on the ground of the continued distribution after knowledge of that letter, and knowledge of it as an objectionable letter, that I think the candidate himself is not free from responsibility in this matter.

However, the Judges disagreed on this matter, and thereupon the Member did not lose his seat; but in commenting on the decision in the St. George's-in-the-East Petition both the Judges, Baron Pollock and Mr. Justice Bruce, distinctly supported the latter portion of Mr. Justice Wright's opinion that charity should be distributed by a candidate through existing agencies, and, generally, to all-comers.

The St. George's-in-the-East plan was most bitterly attacked, but it proved the safe one, and one which may with impunity be followed when general distress prevails.

In the Shoreditch Election Petition Mr. Justice Bruce differed from Mr. Justice Wright in his opinion of the letter referring to the distribution of charity tickets, and gave the following as his reasons for doing so:—

Mr. Justice Willes, in the Lichfield case (1 O'Malley and Hardeastle, 27), said "To prove a corrupt promise as good evidence is required of the promise illegally made as would be required, if the promise were a legal one, to sustain an action."

A man may from the highest motives, and quite apart from any intention to influence voters, feel a special interest in the poor of the division of a borough for which he is a candidate. I think that the words of Baron Bramwell in the Stroud case (2 O'Malley and Hardeastle, 184) are worthy of consideration. That was a case decided prior to the passing of the 48th and 49th Viet., Ch. 56, in which the payment of wages to workmen who were absent from work on polling day was alleged to be bribery. He held it was not. "But," he added, "very probably, however, there was in the minds of those masters who paid in this way some notion that it would not have an unfavourable

effect upon the persons who received the day's wages. They must have had a notion that it would do them some good; they could not have thought that it would have a neutral effect. But the Act of Parliament does not deal with that case. The Act does not say that liberal conduct towards your men, or such a thing as I suggested—for instance, the putting up of a drinking fountain or what not—although it may be done very much to influence voters, is an act of bribery. I do not think it was the intention of the Legislature to prevent the doing of any act liberal and good in itself. As, for instance, if a master said to his men, 'If you choose to make a holiday of this day, you shall not lose money by it; whatever your colour, go out and take your holiday, and you shall be paid your wages all the same.' I doubt if there had been any antecedent promise of that kind, whether it would come within the meaning of the Act. I do not think the Legislature intended to prohibit that. It intended to prohibit acts done with the specific object of influencing the mind of the individual voter to whom they had relation by the particular temptation held out to him; but it did not intend to prevent an act being done to a person, kind and good in itself, merely because it had a tendency to make that person favourable to the persons doing it."

In the St. George's-in-the-East Petition it was clearly laid down how charitable contributions can be given safely. The decision amplifies that of Lord Justice Lush in the Plymouth case, and is a joint decision of Baron Pollock and Mr. Justice Bruce, who were quite agreed that the action of Mr. H. H. Marks was thoroughly justifiable, and not an illegal practice. In giving expression to the views of himself and his colleague, Baron Pollock said:—

Now there are two ways in which a candidate or his agent may be guilty of bribery in the distribution of charitable tickets: First, by the giving of them to individuals, coupled with a request for their vote, in which case the offence falls within the same principle as any other direct bribery which is procured by the giving of money or anything else which is valuable to the recipient. No such case

as this was proved to our satisfaction. Moreover, it is obvious that had this system been pursued, there must have been abundant evidence to prove it, seeing the very large number of tickets that were given away in the winter before the election.

Another, and certainly not a less mischievous, mode of bribing by the distribution of charitable tickets is by giving them dishonestly and colourably on a large scale, and without due consideration of the need of the persons to whom they are given, so that the proper inference to be drawn from the conduct of the giver is that his motive was not that of pure charity, but of corrupting the minds of the recipients, and inducing them to support him in his election; and this might well be so, although there was no selection of voters only, and even if a large proportion of those to whom the tickets were given were non-voters, women and children. Indeed, such a course of conduct would amount to bribery at Common Law, apart from the recent Statutes, and is probably more mischievous and insidious than the buying of a vote by money. It has been said of mercy that it is twice blessed, "it blesseth him that gives and him that takes"; but it might well be said of such charity as this that it is twice cursed, as corrupting alike the giver and the receiver.

Before the Court is led to the conclusion that the distribution of charity in any particular case has been used for a dishonest purpose, it must be clearly proved that the motive of the person so using it is dishonest and corrupt. Whether this is so or not must be a matter of inference to be drawn from the facts of each particular case, and must depend upon many circumstances, involving those of time, place, the persons by whom the charity is distributed and by whom it is received; whether it has been given in pursuance of an accustomed course, or whether it is novel and unprecedented; whether it is moderate or immoderate in amount; and especially whether the persons to whom it is given are proper recipients.

In the Windsor Election Petition Baron Bramwell said:—
"But there is no harm in it if a man has a legitimate motive for doing a thing, although in addition to that he has a motive which, if it stood alone, would be an illegitimate one. He is not to refrain from doing that which he might legitimately have done on account of the existence of this motive, which by itself would have been an illegitimate motive.

"If the Respondent had not been an intending candidate for the borough, and yet had done as he has done in respect of these gifts,

there would have been nothing illegal in what he did; and the fact that he did intend to represent the borough, and thought good would be done to him and that he would gain popularity by this, does not make that corrupt which otherwise would not be corrupt at all."

Although we feel that, notwithstanding the extreme distress which prevailed, it would have been more prudent for the Respondent had he kept aloof from the immediate distribution of the relief, we cannot infer, from the evidence before us, that his motive or conduct was corrupt, so as to bring himself within the provisions of the law against bribery and treating.

In the St. George's-in-the-East Election Petition the question how far the Member for the division was entitled to support a Costermongers' Union was considered; and the decision applies equally to any public matter upon which a Member of or a candidate for Parliament may be appealed to by the poorer residents in his constituency for support in obtaining the money necessary to fight an action or defend a case in which they are interested. The material portions of the judgment are given *in extenso* :—

The Respondent had heard that an attempt would probably be made to enforce the Act (57 Geo. III. c. 29) in the East End against the costermongers; and, indeed, it is probable that, if the conviction obtained by the Holborn District Board had been upheld, similar convictions would have followed in other parts of London. At the meeting there were twenty or thirty costermongers, and the Respondent gave five guineas to start the Union. The costermongers present agreed each to give twopence a week, and the weekly subscriptions were continued until 28th September, 1893. The subscriptions became no longer necessary, because on the 9th February, 1893, the Court of Queen's Bench quashed the conviction. The case is reported 1893, 1 Queen's Bench 612. The money subscribed, including the five guineas subscribed by the Respondent, remains in the hands of the treasurer. It seems impossible to consider this subscription of five guineas as a bribe. If ever there was an occasion where a member for a borough or a

candidate would be justified in assisting a body of persons living in the borough to maintain their just rights it seems to us that this was the case.

The undisputed facts given in evidence by a constituent and by the Respondent were that he was a member of the Union, and having been knocked down and injured by an omnibus he applied to the honorary solicitor to the Union. He, however, declined to assist; and as the constituent could not get any other solicitor to take up his case he went to the Respondent, who said he would see what he could do. The next day the Respondent wrote telling him he would see him through the case, and asking him to go and see the Respondent's solicitors. The case did not go into Court, but was settled by the payment of twenty-five pounds and the costs, so that the Respondent was not out of pocket. We cannot for a moment think that this amounted to an act of bribery. We think that the act of the Respondent may fairly be attributed to sympathy with a man who had incurred misfortune, and was in no way connected with any desire to influence the vote of any person. The constituent was not a voter.

But even had he been I do not think this action in supporting the claims of a constituent in Court (which I have often myself pursued in St. Luke's) could have been held to be an illegal practice.

CHAPTER IX.

POLITICAL CLUBS AND THE PRIMROSE
LEAGUE.

IN a preceding Chapter, Party Organisation has been dealt with in a general way. In this Chapter it is proposed to treat specifically of Political Clubs and The Primrose League.

Political Clubs.

A strong political club in a town, or even in a group of villages, may be a source of great usefulness in electioneering work, and in keeping the party well in hand. But this is not always the case; and many a member or candidate is able, from bitter experience, to declare that his connection with clubs in the constituency has proved a hindrance, and not a help. In London, especially in the poorer districts, clubs seem rarely to be self-supporting, and, to a great extent, are a burden and a drag. But in middle-class districts they are a great assistance in organisation and form a rallying ground for the supporters of the cause.

Whether or not there should be a political club in any given community is a question which must be practically determined by the friends of the cause in that community.

Assuming, however, the existence of the political club, the relationship of the candidate in regard thereto is a question which requires from him a good deal of careful consideration and caution. The relationship should, in fact, be one of reliance, and not a partnership.

The fundamental thing to be safeguarded is that no political club shall be so sustained or worked as to give cause or ground for saying that the club, or any of its members as such, is or are the agent or agents of the member or candidate.

Whatever a member or candidate may have done for the club in the way of assistance in its inception or in furnishing it, or by annual or other subscriptions, he should particularly *avoid making up any deficit*, and should not use his cheque book for the purpose of putting figures straight if the working of the club should show a debit balance or be otherwise disastrous. The club would then be practically part of the election machinery of the member or candidate, for the doings of which it would be very difficult to contend that he was not responsible. When a political club wants that kind of support, the sooner it is wound up the better.

A member or candidate should not be in any way connected with the general management of the club. His subscription to the club should be a moderate one, and he should particularly avoid giving any countenance to any semblance of entertainments at which food or drink is provided for members or their friends free, or at a charge below the cost. After the St. George's-in-the-East and Lichfield decisions it is necessary that the member

or candidate should be particularly careful that there is no general treating of visitors by members of the club at smoking concerts, and he should discountenance, as much as possible, and in every way, the supply of free drinks or treating of club members.

A political club sometimes degenerates into a mere lounge for a clique, and the work it takes in hand is small in proportion to the finances required to keep it up. It is, perhaps, not too much to say that if the money wasted in this way in some constituencies had been devoted to registration work and real organisation, those constituencies would have shown a much more satisfactory result at the last general election than they did.

Candidates and members who gave effect to these views would very likely have to face a little unpopularity for a time; but the instructions from the Central Conservative Office are, in our opinion, based on good law and common sense, and if after a club has been fairly started, and is supported by a fair and moderate subscription from the party representative and other members of the party, it is not successful, then it is not only unwise but utterly useless to attempt to keep an institution on its legs which is perpetually drifting into debt and difficulty.

Supporting Political Clubs.

The decision in the St. George's-in-the-East Petition on the extent to which a candidate may support a political club was, perhaps, one of the most interesting given in the trials arising out of the General Election of 1895. The

point raised was one which had not been previously decided, and the decision of Baron Pollock, given below, should be carefully perused and noted by all Members of Parliament and candidates, who, particularly those for Metropolitan constituencies, are often called upon to pay the deficit, if not the whole, of the expenses of these clubs:—

There were two items which involve an important question, not a question of corrupt practice but a question of illegal practice, and the question is, Has the Act of Parliament been observed? Now that question arose in this way. Mr. Benn had taken a house in the district which he was standing for, and he added within the curtilage of that house, at the other end of the yard, what he called a small house. I suppose it was principally a large room to serve the purpose of a convenient club room for men to come and read, play their games, and discuss matters; and that club was not only a social club but a political club. In no sense is it suggested that that was a sham, in the sense of an association being started which would be a useful instrument to Mr. Benn for anything like corrupt or illegal purposes. That is not the charge. The only charge is that the club, as admitted by Mr. Benn, was all at his expense. He paid the rent, the taxes, the keep up of the place, the painting and cleaning. Of course there was some labour connected with that latter item. Well, so far so good. Until the time of an election came I should say such expenditure was not only not illegal, but was a reasonable and a very fair means of enabling people in a poor neighbourhood to come together and exchange their sentiments, and encourage each other in their political opinions; but when the election commences a different state of things arises, and you have to ask yourself who are the people who are contributing to and working this election, and you find the very people who are in this club and are connected with it are working and assisting in the election.

Well, then comes an argument which I entirely accept so far as the facts support it. He [Mr. Willis] says if a gentleman, instead of hiring a committee room elsewhere, likes to devote a certain portion of his own house—a room or two rooms—for the purpose of a committee room, are you immediately to say he ought to return

a portion of his rent, a portion of his expenditure for coal and gas, as being an election expense?

I should say certainly not, the answer being, whether an election was pending or not, there was a room which he himself and his family would have inhabited. There was the firing; there was the gas; they must have been used either way, and I think it would be a forced construction to say that a proportion of all those expenses became election expenses.

This is the view which the Author has already put forward as to the salary of the Registration Agent, and equally applies to the rent of Association or Registration Offices used for the purpose of the election.

The Primrose League.

No one can deny the great work which the Primrose League has done throughout the length and breadth of the land. Especially is this so in the country districts, where a habitation will often supply the motive power for a winter campaign, and draw to its meetings numbers who would not otherwise be attracted to ordinary political gatherings. The same may be said of the work of the Primrose League in working-class centres of population.

But, whilst generally admitting and admiring the way in which the League has sought to make brighter the lives of the working classes, there is a danger sometimes that its work may become too social and not sufficiently and aggressively political. The candidate or member, whilst readily accepting the help provided by the workers of the Primrose League, should not too closely identify himself with the working of the organisation. It should, if

possible, be officered by persons different from those who hold high official positions in the Conservative Association, and, so far as possible, the ruling councillor and the secretary should not undertake any distinctly political or organising work: otherwise it may be quite impossible to decide, in an election petition, where the agency of the candidate ends in the association, and where it begins with members of the League: but though the habitation may assist in political work, it should always do so in a subsidiary position.

The Primrose League should, as its name and proposed objects indicate, be an absolutely independent organisation, carrying forward its own propaganda, doing its own work, breaking down the asperities of class feeling, disseminating sound political teaching, and doing all this with the graciousness so natural to its dames. Yet so absolutely independent ought the Primrose League to be that there never should be any chance given for holding the member or candidate responsible for the acts of the League or of any of its members, either on the ground of agency or otherwise.

Most efficient work may be done by the Primrose League between the excitements of election contests. Then is really its best time to work. Its mission is one of political instruction, and the quiet voice of fair persuasion can be most effectively uttered when political passion is not warping the judgment. Its pleasant meetings and social gatherings, at which the gratuitous entertainment consists of music and singing or a dramatic performance—like those mentioned by one of the Judges in connection with

the Repeal of Corn Laws agitation—bring together people who would otherwise not meet. The member or candidate need not often be present, though, of course, he would be there when occasion served. The meetings and gatherings should, whenever possible, be addressed politically by neighbours and friends, amongst whom dames should not be conspicuous by their absence. In a word, the Primrose League, in its own peculiar and wholly independent way, should give to the phrase “The Democracy” a wider, brighter, more loyal, and more constitutional and national meaning and vitality than it has ever had before. In this way it has hitherto worked with the best results, and by perseverance in that course it will best carry forward that good work.

CHAPTER X.

ELECTION EXPENSES.

BOTH the candidate and the agent must, immediately the contest is entered upon, ascertain the maximum allowed by law to be paid for the election expenses of the constituency to be contested, and should remember the decisions of the Judges at Rochester and Walsall that, so soon as the actual campaign begins, all expenses (which must not exceed the maximum allowed) must be returned, and that vouchers must also be kept and be forthcoming after the election for at least three to six months.

A well-known election agent, who has published a couple of hand-books on the subject, has well stated that the question is yet unanswered, "When does an Election begin?" It is clear from the decision of the Judges at Rochester that, in view of an approaching general election, the expenses begin to run earlier than the issue of the writ or the final announcement of the date of the dissolution. Yet Section 63 of The Corrupt and Illegal Practices Prevention Act, 1883, clearly indicates that a man becomes a candidate "*who is declared by himself or by others to be a candidate, on or after the day of the issue of the writ for*

such election, or after the dissolution or vacancy in consequence of which such writ has been issued."

The all-embracing words are those relating to expenses incurred before, during, or after an election. Each case, each point, must, as the Judges have already laid down, be decided on the facts, and it is impossible to give hard and fast rules without professional guidance and direction.

What are Election Expenses ?

The two Lords of Session, Lord MacLaren and Lord Kyllachy, who heard the Petition presented against the return of the Member of Parliament for Elgin and Nairn, have discussed the question of what are and what are not election expenses so fully, and have gone, with that scrupulous attention which is so characteristic of the Scotch mind, into the question so thoroughly, that if candidates and agents will but peruse the following judgments and ascertain how far the expenses over which they have control may be divided under the categories of "Political Education," "Political Organisation," and "Personal Candidature," the pitfalls before them will be far fewer. In his judgment Lord MacLaren said:—

The points which have been argued under the present branches of the inquiry are two: First, it is said that there has been a violation of the provisions of Section 8 and Section 28 of the Statute of 1883, because, during the period of eighteen months preceding the dissolution of the last Parliament, political expenses were incurred either directly on the instructions of Mr. Gordon or through his political friends with his approval and for his benefit, which expenses have not been entered in the election account, which, by the statutory provisions, must include the whole of the costs incident to the election.

I think it is perfectly plain that it was not intended that the whole political expenses of a candidate during the sitting of Parliament from one election to another should be included in an election account, for this simple reason: that Parliament has not said so, but has used an expression of a much more limited meaning, namely, "expenses on account of or in respect of the conduct or management of such election." We are to construe Election Statutes fairly in this way: that we are to endeavour so to construe them as to prevent evasion; but where there is no question of corrupt dealing or of evasion, but a mere question of construction for determining the meaning of an expression which has been left indefinite, my view would be that the Statute must not be extended by putting upon the words a meaning which they do not bear, and which might quite easily have been expressed in other language. Therefore, I think that "conduct or management of such election" means a definite election within the knowledge and contemplation of the parties who are engaged in conducting and managing it.

The case where there is a vote in the House of Commons adverse to the Ministry, and where, from the moment when that vote is announced, everyone is looking forward to a dissolution of Parliament, with a view to determining whether the Government of the day is to continue to enjoy the confidence of the country, I should certainly hold that from that time the election had begun in the sense of the sections we are considering. I do not say that it may not be begun at even an earlier period.

POLITICAL ORGANISATION.—THE SALARY OF THE SECRETARY.

With regard to the secretary's salary and expenses, I think they are excluded by a more general view, because I do not think that it was intended by the Act of 1883 to interfere with the regular work of political organisations. In our country it has always been treated as a constitutional principle that all citizens should be free to meet together to discuss public questions, to petition Parliament if they please, or, if they are dissatisfied with their representatives, to endeavour to influence their fellow-electors to bring about a change in the representation. It is impossible to conceive of Parliament deliberately interfering to put a stop to a practice of such inveterate and perfectly established regularity. But political organisation cannot be carried on successfully without incurring

expense; and it is not a new thing, I think, but a perfectly familiar feature in our political system, that there are associations and constituencies which are assisted by salaried agents, and which defray the expenses of political meetings and advertising.

I agree with the view expressed by the Judges in the Kennington case, that this kind of expenditure, which is commonly known as Registration Expenditure—because, of course, the ultimate test to which everything is brought is, how many electors of your party can you put upon the Register—is outside the proper business of the election.

I mean the ruling that money expended in founding a local newspaper is not to be treated as election expenses, although, in point of fact, the newspaper was established during a time when an election, in the sense I have given to the word, was pending: that is to say, after it had been announced on official responsibility that a dissolution would take place.

Lord Kyllachy's judgment was as follows:—

These expenses are of three classes: First, expenses of certain meetings addressed by the Respondent in the spring and autumn of 1894. Second, salary paid to the organising secretary of the Unionist Association for registration and other work done during the period from January, 1894, to June, 1895. Third, personal expenses incurred by the Respondent during the same period. The suggestion is that these were all expenses which, to use the words of the Act, were incurred "in the conduct and management of the election," and it is said that, being in that category, they ought, first, to have been paid through the Respondent's election agent, and, secondly, to have been entered in the Respondent's election accounts.

That, at least, his [Mr. Foster's] chief duty was that of a registration agent, that he was paid a salary at a certain rate per month, and that his salary would have been paid all the same—would probably have been paid all the same—although Mr. Gordon had not appeared on the scene, or had not appeared until immediately before the election, is evident. I do not consider that in these circumstances it is possible to suggest that Mr. Foster's salary comes under the category of expenses incurred in furtherance or promotion of the Respondent's candidature.

PERSONAL CANDIDATURE.

The other expenses, however—I mean the expenses of meetings and the Respondent's personal expenses—although not of a large amount, are perhaps in a different position, and are quite sufficient to raise the question; and with regard to these I propose to assume, although I do not decide, that they did represent expenditure made in the furtherance or promotion of the Respondent's intended candidature. In that view the question we have to decide is a comparatively short question, and is simply this, whether it is according to the past construction of the Act of 1883 that those expenses—expenses of meetings and personal expenses incurred during the period from February, 1894, to June, 1895—were proper election expenses: that is to say, expenses incurred “in the conduct and management” of this election.

I confess it suggests very strongly to my mind that what the Legislature had in view as to the period of the election—the period of the election which was to be conducted and managed—was a period not at least much anterior, I will not say to the date of nomination, but to the group or series of events which immediately precede the nomination, and which, as we all know, begin in the case of a bye-election with the announcement of the vacancy. It is then, and not till then, that, unless in exceptional circumstances, the candidate joins issue, and the contest, as distinguished from the preparations for the contest, begins.

The Statute might have defined that period; but it has not done so, and no doubt for this good reason, that if a hard and fast line had been drawn, a hard and fast date fixed, facilities would have been offered for evasion of the Act—evasion by dishonest candidates desirous to evade it, and defeat its object.

My contention in previous editions of this work that it is not necessary for a candidate to schedule his charitable donations, nor his subscriptions to party organisation, has received judicial sanction by the decisions of Mr. Justice Bruce at Haggerston and also of Lord MacLaren in the

Scotch cases. The following is an extract from the decision of Mr. Justice Bruce:—

The political meeting is an important element in the education of the people, and I feel satisfied it was not intended by the Legislature to impose any restraint upon the full discussion of public affairs in public meetings.

Of course public meetings cannot be held without expense; but in my opinion the expenses of such meetings are not election expenses, unless the meetings are in some way connected with the election of the candidate. A meeting that is called for general political purposes does not, I think, become an election meeting merely because a candidate attends it, nor even because some allusions are made to his candidature.

Every meeting of any kind that a candidate attends may have the effect of increasing his popularity and making him better known to the electors, but incidental matters of that kind do not alter the character as regards the expenses of the meetings. In each case it must be a question of fact whether the main object of the meeting is to promote the election of the candidate.

The lectures in 1893, about which we have heard so much, were no doubt of a political character, but they were lectures to advance political principles [Conservative principles], and I think it would be most mischievous to hold that the expenses of such lectures should be regarded as election expenses. If a candidate opens a bazaar, or lays a foundation stone, or takes the chair at a charity meeting, he may by so doing indirectly tend to promote his election; but the expenses attending such meetings, or the expenses of the candidate attending them, are not to be considered as election expenses. The line must be drawn between meetings called with the direct object of advancing the election of the candidate and meetings called for another object from attendance upon which the candidate only derives some indirect or remote advantage.

The salary of the political agent often becomes an important point; but no difficulty would arise in the majority of cases if, during the active contest after the writ is issued, the salary for that period, and that period only, were charged in the expenses of the election.

The following judgment of Mr. Justice Bruce in the Haggerston Election Petition shows that there is some doubt on this point, but it is wiser to err on the safe side:—

So with reference to the paid secretaries, where a secretary is paid for registration work or for organisation work, and he devotes his time substantially to work of that character, I do not feel sure that, merely because he gives part of his time to work which may be determined to be election work, a portion of his salary must therefore be necessarily allotted as forming part of the election expenses.

Candidates' Expenses: When do they Commence?

At Walsall Mr. Justice Hawkins expressed grave doubts as to whether the commencement of the candidature, and necessarily of the election expenses, did not date from the moment when the candidate exhorted his supporters to bestir themselves, and announced that in his opinion Parliament was on its last legs. But neither at Walsall nor at Rochester was there any judicial decision as to the exact time when the candidature commences, and the date from which the election expenses must be scheduled, although it is clear from the remarks of Mr. Justice Cave that in his view candidature and election expenses begin from the moment the candidate is actively engaged in the prosecution of his claims, and when the election is believed by him and his supporters to be imminent.

The Judges in the Stepney case, however, decided that the candidature of a sitting Member dates from the time when the political association of which he is the champion nominates and adopts him as the person to fight its battle

at the ensuing General Election, and from that time the political meetings cannot be classed as ordinary organisation meetings, or as meetings of the association, unless the minute books of the association are produced and show clearly and distinctly the object of the meetings, and that they were for general rather than for particular and personal purposes.

In discussing the time when the expenses of a candidate which require to be scheduled commence, I cannot, however, do better than set out in detail the views of Baron Pollock and Lord MacLaren in the Lancaster and Elgin and Nairn cases respectively. If action be taken in accordance with the views therein expressed, security of tenure and safety from petition may be relied upon.

Baron Pollock expresses his view of the law in England as follows :—

I must say, with all who have gone before me in giving judgment upon this point, the statute does not state when the election begins. The Judges have said we can go behind the appointment of an agent and the management of the election and start from an earlier date, but still it is entirely a matter I will not say of discretion but of sound judgment to say how far you can go back and how far you may not go back. When the candidate himself came—the moment he came in bodily shape—within the constituency saying “*I am your candidate!*” I hold, and should always hold, that when a man puts himself in that position, although it may be some time before the election, he cannot be heard to say *that the election has not begun*. As I said then I say now. He was master of the situation; he could have elected to come or not to come; he chose to come, and he took up the position, not of saying “I will be your candidate when I am asked,” or whenever it may be, but he came and commenced from that time the fight of the election. Nor should I under any circumstances say at what exact moment of time this election commenced, because I think in the present case the question

of these payments, which were made by these associations for their gatherings, is met by a second objection, made on behalf of the Respondent, which is this, that the association, and those who made these payments, were not at the time they made them an agent or agents for the candidate, the Respondent. I do not find any law which says that no person shall ingratiate himself with the people among whom he is living by going to meetings where these views of politics are taken, and where he himself is spoken of as a *future* candidate.

I agree very much with what was said by one of the learned judges in Scotland (Lord MacLaren) in these words:—"In our country it has always been treated as a constitutional principle that all citizens should be free to meet together to discuss public questions, to petition Parliament if they please, or if they are dissatisfied with their representatives to endeavour to influence their fellow-electors to bring about a change in the representation. It is impossible to conceive of Parliament deliberately interfering to put a stop to a practice of such inveterate and perfectly established regularity. But political organisation cannot be carried on successfully without incurring expense; and it is not a new thing I think, but a perfectly familiar feature in our political system, that there are associations in constituencies which are assisted by salaried agents, and which defray the expenses of political meetings and advertising."

In the Lancaster case Mr. Justice Bruce also refers with approval to the Scotch decision:—

Lord MacLaren says: "It is impossible to lay down any definite rule as to when the conduct of an election begins, or to deal with this otherwise than as a question of fact, in which the general political history of the period and the conduct of the individual candidate are alike to be taken into account." It seems to me to be unreasonable to assume that a gentleman, resident in the district, who has shown an active interest in party politics in the past, and who has been invited to become a candidate, is to be taken to have assumed the responsibilities of candidature because he continues to be an active worker in support of the principles he has always supported. At the meeting at Morecambe on 8th May, 1895, no resolution adopting the candidature was ever proposed or passed, and, although some of the speakers said that they hoped that Colonel Foster would be returned,

it does not seem to me, after the explicit declaration of Colonel Foster *that he did not at that time regard himself as a candidate*, that it would be reasonable to construe the expressions used by individual speakers as affecting the status of Colonel Foster.

Mr. Justice Bruce, who has had the advantage of contesting a seat for Parliament on four occasions, however, in the Lichfield Petition, thus fixed the time:—

I think, as soon as a candidate begins to hold meetings in the constituency to advance his candidature—in other words, as soon as he begins to take measures to promote *his election*—the election commences.

It was a public meeting; it was a meeting of the electors. It was not a meeting of any particular section of the electors, nor of any committee, and, as I have said, it *concluded with a resolution* to secure the return to Parliament of a candidate, and therefore the expenses of that meeting and the expenses incurred after that date to promote the candidature were election expenses, and there was therefore a neglect to comply with the requirements of the statute in not returning those expenses.

The resolution was “That this meeting, having heard the address of Mr. H. C. Fulford, approves of his candidature, and pledges itself to use every legitimate means to secure his return to Parliament”; and Mr. Alderman Cook congratulated the Liberals of the Lichfield Division upon having secured so excellent a candidate. Of course that is not language he is responsible for. I cannot help thinking, in my own mind, that Mr. Fulford would have been very much surprised if someone had said “You are a candidate for the division, but I do not think you are; as far as I can see you are not a candidate.” I think Mr. Fulford would have been the first person to say, “Why, you have seen the account of that meeting; have you seen what I said on that day, and how can you say that I am not a candidate?” It seems to me that that is quite sufficient to say that at that time he was a selected candidate, and whether a dissolution was imminent or not that was a matter for him to choose.

It is, in my opinion, necessary to schedule as an expense any meeting or meetings at which resolutions of confidence are passed in support of the candidature of any specific

person. But there is no need for a number of these meetings. It is unnecessary for the candidate to be continually advocating his own candidature. In all divisions of counties or boroughs a large number of ordinary political meetings are held in the course of the year, and it is but right that the candidate, as the most prominent politician of the party, should attend them. But he should appear at such meetings simply as an ordinary political speaker, and at the most a vote of thanks for his speech or address should be adopted. No questions should be put to him as candidate, nor should any resolutions be passed in his favour. All the dangers which resulted in the unseating at Lichfield, and, in fact, all contentions proceedings, would then be avoided. But where the resolution is adopted, and whenever brought forward, no matter how long before an election, the expenses of that meeting, or of those meetings at which it may be adopted, *must be returned as election expenses.*

It is, however, clear that when the writ is issued, and a vacancy declared, the mere fact of not passing a resolution of confidence at any meeting would not relieve the agent from returning the expenses of such meeting as election expenses.

In the Haggerston Election Petition Mr. Justice Wright dealt very fully in his judgment with the question as to the time when the candidature began, and for what period the expenses must be returned:—

Now I think that Mr. L— became in the fullest sense a candidate in November, 1892; and from that time till the end of June, 1895, just before the election, somewhere about £500 was spent either by Mr. L— or by the Council. That amount may be roughly divided

into—Salaries of ward secretaries £210; lectures and entertainments £60 or £70 or £80, according to the view that is taken of them; petty cash, rent of offices, and the price of boards about another £100; and about £150, which to my mind ought to be regarded as, and ought to have been returned as, election expenses.

Those questions and many others might be gone into, but we think there are only two matters about which we ought to express any opinion. One is, that the giving of lectures for what has here been called *the education of the constituency* is not at all necessarily an expense on account of the election or an election expense. We think it would be unduly confining the methods of political work and political enlightenment in this country if we were to attempt to lay down any such general rule as that the expenses of such lectures—even though given with the view of advancing the prospects of a particular candidate—are necessarily election expenses. We think that must depend upon the circumstances in each case, and that in the case of this election it is not made out that the expenses of these lectures were expenses on account of the election.

The other point upon which we think we may properly express an opinion is that the illustrated almanacs, containing the matters which they did in support of the candidate personally, the pamphlets containing his speeches, certainly the pledge cards, and I think the portrait cards, and to some extent the boards, were all matters which were expenditure on account of the election, and, in so far as they ought in law to have been held to be expenditure made by Mr. L——, ought to have been included in his return.

We have no doubt that a great part of the work of the Council and of the paid ward secretaries was registration—the greatest part of it. A great part of the petty expenses, and some other things also, ought to be referred to registration.

Counties and County Divisions.

In Great Britain, where the electorate does not exceed two thousand the maximum expense is £650.

If it exceeds two thousand (as it generally does), but does not exceed three thousand, £710; and for every complete additional thousand electors, £60.

In cases of joint candidature, though none exists in counties, a reduction of the maximum by one fourth, similar to that in connection with boroughs.

Knowing the minimum and maximum expenses for town and county, it is advisable to subdivide the amount, setting aside certain sums for various portions of the work during the contest.

County Electoral Divisions.

FEEs.

Agent.

Sub-agent for each polling district.

Central committee room. One clerk and one messenger for an electorate consisting of five thousand or less electors, and in addition one clerk and one messenger for each five thousand or incomplete five thousand electors over and above the first five thousand.

Committee room for each polling district. One clerk and one messenger for five hundred electors or less, and in addition one each for each five hundred electors or portion thereof after the first five hundred.

One polling agent on the day of the election in the booths.

No voter employed for payment can vote, nor should he systematically canvass (see the decision in the Lichfield Petition, page 49, *ante*), and each agent and sub-agent should give notice to every clerk or messenger that he must not record his vote.

HORSE AND CARRIAGE HIRE.

A very liberal sum, not less than £100 in most cases, should be set on one side in country districts for the sub-agents' as well as the candidate's, speakers', and agent's visits to the rural districts.

EXPENSES OF MEETINGS.

The amount for the hire of rooms is generally small, the greater proportion of the expenses being required for sending by post or by messenger the notices to the individual voters.

ADVERTISEMENTS IN LOCAL PAPERS.

In every case a distinct contract should be made, and if there are daily papers in the county the ordinary advertisement charge of one shilling a line should be reduced for the daily issues.

In addition to the amounts paid to clerks and messengers, payments may be *bonâ fide* made for the purpose of distributing notices and election literature.

PRINTING AND STATIONERY.

After advertisements are provided for a definite sum should be set aside for printing and stationery, the bulk of which should be supplied from the central committee, only a small sum, £10 at the most, being allowed for the sub-agent to expend in local notices.

Beyond that sum no printing should be allowed or permitted except from the central committee at and by the orders of the agent.

POSTAGE AND TELEGRAMS.

Telegrams in a county will absorb £20 to £25. In a borough not less than £10 must be put aside for the purpose. Postage must be considered as an item of at least a penny or three-halfpence per voter if notices are to be sent by post. In a county this is generally the better way.

BILL POSTING.

Estimates must be asked for and secured before orders are given, or the charges may absorb the whole of the sum allowed for miscellaneous expenses.

HIRE OF COMMITTEE ROOMS.

In a borough an empty shop should be taken; but in a country district rooms in cottages, the charge for which should include the hiring of an attendant.

The ordinary committee rooms should be hired for a fortnight, and the central committee room for three or four weeks. Whilst the hire of all the others may terminate on the day after the polling day, the central committee room should be retained for from three to seven days after the election as the place at which notices, accounts, &c. may be delivered.

MISCELLANEOUS EXPENSES.

An efficient system of cycle messengers (volunteer if possible, or, failing volunteers, clerks employed at the various committee rooms), acting under the instruction of the sub-agent, should be at work visiting the villages and distributing bills day by day for at least a fortnight before the contest.

Cyclists distributing literature *bonâ fide* may be paid in excess of clerks or messengers.

One sub-agent who can and will ride from place to place should always be chosen for work in the country.

The fee for each agent and sub-agent should be fixed and the retainer given before the election, and the remuneration of each polling clerk, clerk, or messenger (who should be appointed by the agent in writing) determined.

Borough Expenses.

The amount allowed for each borough in England, Wales, and Scotland is £350 where the electorate does not exceed two thousand, and £30 for each thousand electors above two thousand. In Ireland the maximum and minimum amounts are smaller, both in town and county.

In the case of two joint candidates the maximum amount for each is reduced by one fourth. Thus, if £500 be the legal maximum, each candidate would be allowed to spend £375, and no more. It has been contended—but there is no decision, except by a municipal election commissioner, who

was against that view—that where there are two joint candidates there can be two separate agents. It is a point of doubt, which, without judicial guidance, it would be rather unsafe to act upon.

The allowances and costs in a Borough are different in the following respects from those in a County Election:—

One election agent only can be employed.

No sub-agents are allowed.

No central committee room is permitted as in counties, but a committee room for each polling district is allowed. Of course one committee room can be, and should be, made the chief committee room, but it must not be in excess of the number allowed by the Act of 1883.

One clerk and one messenger for each five hundred electors within the ward, and one clerk and one messenger for each additional five hundred electors, or incomplete portion thereof.

One polling agent in each polling station, and no more, can be employed.

HIRE OF COMMITTEE ROOMS.

If the committee rooms are hired for a fortnight it is quite long enough. Some rooms are really only needed just before and on the day of the election.

One committee room is allowed for every five hundred electors, and one in addition where the number exceeds five hundred or for any complete five hundred.

No central committee room is allowed in addition, and in the list of expenses the rooms must be so described as to be capable of local identification.

HIRE OF HALLS AND ROOMS FOR PUBLIC MEETINGS.

A fair sum in proportion to the population and voters should be set aside for this purpose; but great meetings, useful as they may be to stimulate enthusiasm, are not of such absolute necessity as meetings in each and every district, ward, and village.

PRINTING AND STATIONERY.

Printing should not be confined to one office, but distributed, where possible, in the constituency, some being given to the local press.

POSTAGE.

In a borough this must not be large, unless it is found better to send out all notices through the post, which is very often more likely to secure accurate and safe delivery. In that case from £50 to £100 should be set aside, according whether it be a single or double member constituency.

ADVERTISING.

Where there are daily papers, and the candidates' addresses are inserted, this amount requires attention.

HORSE AND CAB HIRE.

Horse and cab hire generally comes within the candidate's personal expenses; but it must be remembered that where an agent, clerk, or messenger makes such charges, they must be proved by vouchers if over forty shillings.

There must be no payment for baiting horses and putting up of carriages on polling day, and no tips must be given to the persons acting as coachmen, whether for their respective employers or as volunteers.

Personal Expenses.

The law is the same with regard both to borough and county elections.

Under £100 the candidate need make no detailed return.

Over £100 (and there is no limit for personal expenses) the candidate must pay through his agent, and make a detailed return along with his other election expenses.

Section 64 defines the candidate's personal expenses as "the reasonable travelling expenses of such candidate, and the reasonable expenses of his living at hotels *or elsewhere for the purposes of and in relation to such election.*"

As the personal expenses of the candidate are practically unlimited, it is a pity that anyone should run any risk by not returning a sufficient amount, as it is only when over £100 has been expended that the member or candidate is required to make a return of these sums and to pay them through his election agent. It seems to be the opinion of the Election Judges, as evidenced by their remarks at Rochester, that where a candidate takes a house within the constituency, in which he does not ordinarily reside, the expenses of doing so become his personal expenses and form part of the election expenses which must be returned.

It is most necessary that vouchers should be kept, until at least six months after the election, of all expenses in

connection with election purposes, and it is certainly clear from the general condemnation of birthright clubs and registration suppers that these would be sufficient in future petitions to unseat a Member.

Returning Officer's Charges.

In addition to these charges, set out in The Corrupt and Illegal Practices Prevention Act, 1883, the law permits the personal expenses of the candidate and the returning officer's charges. The latter are as follows, subject to the provisions of the Ballot Act and to taxation:—

NOTICE OF ELECTION.

Preparing and supplying nomination papers.

Travelling expenses.

Hiring and fitting up polling stations.

Ballot boxes.

Presiding officers.

Necessary notices other those of the election.

POLICE, PERSONAL, AND OTHER ASSISTANCE.

The returning officer has a right to demand a deposit, up to the full amount allowed by the Ballot Act, at or before the nomination, and must account to the candidate or his agent for the expenditure prescribed by the Ballot Act, and the bill if not satisfactory may be taxed in the County Court.

In the Stepney election it was suggested by Mr. Justice Cave that the deposit to the returning officer should be made by the agent, and not by the candidate himself.

The Corrupt and Illegal Practices Prevention Act, 1883, requires all payments on account of the election to be made by the Agent.

All other expenses than those set out in the above list must be vouched for. Refreshments for clerks and persons employed must be paid for by themselves, and out of their fees or wages.

The returning officer has, before the twenty-third day after the polling day, to supply the agent with a detailed account of his expenses; and the balance of the deposit made, including sundry claims against the returning officer, must be sent in up to and within the sixteenth day.

Miscellaneous Matters.

Canvas or any other kind of banner or similar displayed advertisement must be avoided.

All election expenses over forty shillings must be set out in detail, and come under the head of "Petty Cash," "Bill Distributing," or "Bill Posting," though "Miscellaneous" would cover any expense not actually forbidden by statute.

All petty cash accounts, books, notes, &c., should be preserved for at least six months after the return of election expenses has been made to the returning officer.

All claims against a candidate must be sent in within fourteen days after the election, or they are statute-barred.

The same restriction applies to the time for sending in claims against the returning officer.

The twenty-ninth day is the last day for payment of claims by the candidate's agent. All disputed accounts must be returned as disputed.

The thirty-sixth day is the last day upon which the election agent can transmit his return and the declaration of the candidate as to the expenses of the election.

On the forty-sixth day the returning officer must publish his summary of the election expenses so returned.

CHAPTER XI.

ILLEGAL AND CORRUPT PRACTICES.

LORD FIELD has judicially defined the present state of the law on these two classes of offences as follows:—

An Illegal Practice is a thing the Legislature is determined to prevent, whether it be done honestly or not.

A Corrupt Practice is a thing the mind goes along with.

Bribery, Treating, and Undue Influence have always been held to void an election, though the decisions at Hexham and Rochester carry the principle of treating to a greater extent than it has been hitherto carried: viz., “that it must be to influence an individual vote.”

Bribery.

Under this head the law includes the following:—

Any gift, loan, or promise of money or money's worth made to an elector to induce him either to vote or to abstain from voting for a particular candidate.

The offer or promise of a situation or employment to an elector, or to any one connected with him, if made with such an object.

The giving or paying or procuring money for the purposes of bribery.

A gift or a promise to a third person to procure a vote.

Any payment for loss of time or wages, and for travelling expenses; but an employer may give reasonable leave of absence for voting without stoppage of pay, provided that all electors in his employ are treated alike.

Any one who receives a bribe, or bargains for the payment of one, or procures or attempts to procure employment or reward in return for his vote, is guilty of bribery.

In the case of betting and wagers, on a scrutiny the point can be raised whether a briber might effect his corrupt purpose by means of a wager in betting against his own party.

Personal Bribery by Candidate: Promises of Employment.

In the Lancaster Election Petition the question whether the promise of employment given by a candidate to electors amounts to personal bribery was considered, and the following judicial decision given:—

Then what is the proper rule by which to put a meaning upon these words?

It is—considering the place where and the people to whom the words were uttered, the occasion, and all the surrounding

circumstances—can it be fairly or properly said that those words were used to a class of persons who were employed by the candidate, he knowing that the effect produced upon their minds would be, not merely to say “There is work for you who have children,” but to say “and therefore as I have come down here upon election business I hold out that bribe to you”?

Bribery and Treating.

The decision at Hexham is of the greatest importance to the Primrose League and its members, and to every other political association or club, and affects the whole current of general work by means of social gatherings in town or country. In order to show clearly what may and what may not be done, and to avoid the very semblance of responsibility on the part of the member or candidate, it is absolutely necessary that he should not subscribe to the local habitation, club, or association which provides the funds for an entertainment at which food and drink are given, and that so far as possible the expenses of “holding the socials” must be provided from the general funds of the association itself. But the abstention of the candidate from subscribing to these organisations does not absolve him from corrupt treating in the case of refreshments being supplied free or at a price less than their cost, nor would the member retain his seat if such treating or corrupt practice were shown to have been general.

In order to understand what may be done it is necessary to quote the exact words of Mr. Justice Cave:—

No doubt so long as the local associations confined themselves to their own members, and did not tout for subscriptions for such a

purpose, if they united in order that by means of uniting they might be able to afford a social gathering, I should see nothing wrong in that; but undoubtedly it is somewhat dangerous, because it is easy to pass from that to something which is objectionable; and when a local organisation has got up a social *fête*, and there happens to be a loss upon it, there is then the temptation to other people to subscribe and make good that loss, which, if the treat is one involving the giving of meat and drink at less prices than they cost those engaged in furnishing it, comes perilously near to treating.

If this connection were recognised by the candidate, and any balance found by him, that would of course be quite sufficient to make the association his agents.

Baron Pollock, in the St. George's-in-the-East Election Petition, in discussing bribery and treating and the danger of "standing drinks" in a club, dealt with the questions from a historic standpoint. He said:—

The Anti-Corn Law League was a powerful society, with large funds at its disposal, with which it used to carry on the advocacy of the principles of free trade. It is noted in Mr. John Morley's *Life of Cobden* that it was difficult to secure good attendances at the meetings held under the auspices of the League unless the device was resorted to of providing tea and light refreshments. No one ever suggested that it was corrupt to attract persons to the meetings by such means. It may be said that the law at the time was not so strict as it now is, and that what might be looked upon as innocent in the year 1840 has, by recent legislation, become illegal.

No doubt, fresh penalties have been imposed by recent legislation, but as regards the substance of the offence of bribery and corrupt treating the law has not altered.

Any act of treating tending to interfere with the free exercise of the franchise was always considered as a corrupt and illegal act at Common Law. But it has never been considered as necessarily a corrupt thing for persons interested in a particular subject to invite other persons to a discussion relating to the subject, even though some entertainment may be provided.

In the case in question the treating took place upon the night on which the Respondent was adopted as the candidate, and all those then present in the Conservative Club were provided with free drinks. At the trial Baron Pollock pointed out the danger of such a proceeding in the following words:—

We do not mean to say that a corrupt act is the less corrupt because done a long time before an election is in prospect; but when we are determining the question whether it is or it is not reasonable to conclude that an act is done with a view to influence votes, the element of time becomes a very material one.

There were smoking concerts held frequently during the winter months at the Constitutional Club, and it was usual for some prominent member to take the chair. The chairman was generally supported by his friends, who sat round what is called the chairman's table, and it was usual for the chairman to provide bottles of whisky and drinks for those who sat at his table. Sometimes a bottle strayed from the chairman's table to those who were sitting near. On one occasion a gentleman of the name of Schaumlöffel had won a large sum by a bet, and he brought a number of friends to the club and paid for liquor for them. According to the rules of the club members were allowed to introduce strangers, and the member introducing a stranger treated his guest. It is not within our province to pronounce any opinion as to the prudence of allowing meetings of this character to take place. We have only to determine whether the treating which took place can be considered as corrupt.

None of these smoking concerts seems to have taken place later than March, 1895.

We think we should be going altogether beyond the intention of the Legislature if we were to hold that social gatherings, such as we have described, held at a time when there is no immediate prospect of a General Election, are to be considered as corrupt. No doubt political speeches were sometimes made at these concerts, and political songs were sung, but it seems to us that the kind of entertainment given was just that which would ordinarily be given where working men or tradesmen acquainted with one another went for relaxation and social enjoyment.

There is, as it seems to us, nothing necessarily corrupt in the ordinary social amenities taking place at a political club, and no evidence upon which we can place any reliance has been afforded to show that the entertainments at these smoking concerts were used as a means of influencing votes.

Treating.

The statutory definition is as follows:—

Any meat drink entertainment or provision to or for any person, for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of treating.— *Corrupt and Illegal Practices Prevention Act, 1883, Section 1.*

The receiver of any meat, drink, &c., is equally guilty, and liable to the same punishment as the person who treats or bribes.

Treating the wives or relatives of electors in order to induce their husbands or relatives to vote or abstain from voting is an offence.

Neither candidates nor their agents are allowed to provide meat, drink, or refreshments of any kind for volunteer workers at, before, or during an election.

Registration suppers have been the subject of judicial condemnation, as well as birthnight clubs.

Although Treating is clearly defined (see above), and Judges have from time to time held that the manners of ordinary people who frequent public-houses cannot be expected to change, Baron Pollock gave vent to some strong views in the Lichfield Petition on the conduct of the

friends of the candidate who frequented bars for the purpose of ingratiating themselves with the electors. The learned Baron said:—

It is a great misfortune, and I am surprised myself as a matter of ordinary prudence, that a gentleman like Mr. B——, and others, should not, in order to be absolutely clear in a matter of this kind from the beginning right down to the very end of an election, take care not only not to treat, *but not even to be seen in the public-houses*, except where it is absolutely necessary.

Lord Field has defined illegal treating (which is an offence, as it applies to the sort of treating which exists where the superior treats the inferior) as the treating which gives the treater influence over the person who is treated, and secures to the former the goodwill of the latter.

It must have reference to some election, and it must be for the purpose of influencing the vote of the persons treated.

Mr. Justice Cave and Mr. Justice Vaughan Williams, in the Hexham and Rochester decisions, have carried this doctrine further; for in unseating Mr. Clayton for the act of his agent, Mr. Baty, in making up the deficiency at a football supper, and also at a Primrose League demonstration, the Judges held that, as at the time Mr. Baty was secretary to both the Primrose League and to the Conservative Association, these were instances of treating conclusively shown to have been provided by Mr. Baty, who became the member's agent. They also held that such treating—*i.e.* making up the deficiency for food, drink, and entertainment—was for the purpose of inducing people to adopt or *to confirm themselves* in

Conservative views at the election which was known to be impending, though in one of the cases instanced the treating took place nearly eight months before the election.

It is clear that candidates must not pay for drinking at any social entertainment or friendly society's dinner they attend in the constituency. It is equally clear that neither they nor their agents, nor the associations to which they subscribe, may make up the deficiency in the cost of any socials, entertainments, dinners, or suppers which may be got up among the members themselves.

At Rochester, where there were *conversazioni*, at which threepence per head was charged for refreshments, the Judges who heard the Petition held that "it was obvious that the refreshment provided could not be *supplied for the threepence charged*. They had come to the conclusion that the refreshments were provided in that excessive quantity with a view to promote the election of the Conservative candidate and to influence the others to give him their votes, and, consequently, that amounted to corrupt treating."

But, at Worcester, both Baron Pollock and Mr. Justice Wills held that "no man was bound to abstain from hospitality because an election was pending"; but candidates and all persons who might be deemed to be agents will find it wiser and safer so to abstain.

In view of the decision as to the insufficient charge for the *conversazioni* at Rochester, the charge for tickets should, in my opinion, be not less than the cost or contract price of the food. It is the attempt to corruptly influence

a vote which is illegal, though Mr. Justice Cave says further:—

Treating is a particular form of corruption which can be practised with advantage at the present time. Now that the constituencies are so large, it becomes impossible successfully to bribe individually, and if a general feeling is produced that the candidate is a good fellow, and that he is willing to give a poor man a supper, a treat, or an entertainment, and if that gets generally spread over the division, an enormous amount of popularity is produced as against any other associations or persons who do not resort to that sort of thing at all.

Members and candidates must be very careful not only not to contribute to deficits, much less entertainments, but not to provide subscriptions for getting up entertainments. Whatever is done, and done legally, must be done by the association or habitation itself without extraneous help, and by its members contributing equally to the cost, at any rate, of all provisions, and without inviting others outside the association to take part with free tickets or at reduced prices. The general condemnation of birth-night clubs and registration suppers, which formed part of the subjects discussed at Rochester, does not press for any particular notice, as, to any person accustomed to electioneering, they, under The Corrupt and Illegal Practices Prevention Act, 1883, present elements of doubt and illegality.

It is clear, after the division of opinion of the Judges at Montgomery, that a person who, when "in his cups," treated nearly everyone he came across was not a proper person to be selected to act on a committee, and that "the reprehensible selection ought to recoil upon those who had been guilty of such culpable carelessness."

With regard to publicans and their customers, this rule was laid down judicially :—

Everyone who lived in a large town must be aware that publicans, and everyone else who went into the public-houses, did that which was not only a bad example, but which if done at the time of an election might lead to suspicion, and perhaps actual proof, of malpractice in influencing the minds of those to whom the drink was given.

At Lichfield the Judges reported two of the friends of the candidate who frequented public-house bars, and treated the electors thereat.

Agency must, of course, be proved before the candidate can be held responsible.

It is clear that in cases where the treater has become the recognised legal agent an act of treating will date back.

It is equally clear that the active officials of the Primrose League and the Conservative Association should not be identical.

Bands of Music.

It should also be remembered that music in itself is not illegal, except when provided by the candidate at the time of an election.

One of the charges in the Lancaster Election Petition was that at a political gathering held at Morecambe the town band attended. The presiding Judge stated that the charge failed for the following reasons :—

It was a band in the district which had existed for some time and was known as a "Town Band." At different times Colonel Foster and, as I suppose, a great many others had given money towards this band, subscribing to it from time to time, and it so happened that a short time after this, upon being told that a certain

number of instruments, costing a considerable sum, had been procured, Colonel Foster sent them a cheque for £5. Therefore I consider that charge is entirely unproved, because there is no proof of engagement of the band by the candidate or agent.

The band did play at a political meeting on 8th May, but, whether voluntarily or whether they were paid by some other person, remained a mystery. It was, however, treading on dangerous ground, and if the payment had been brought home to the candidate or his agent an offence against the Act would have been established.

Smoking Concerts.

Officials of associations which from time to time hold smoking concerts, at which drink is purchased or provided, should carefully study the following words of Mr. Justice Bruce, because after this warning has been given it will be difficult to resist a finding of treating, and perhancee of agency, in a case where the chairman of a smoking concert follows the course which is here so strongly condemned :—

The practice, which was proved in the present case, of the chairman for the time being at smoking concerts and at other social gatherings paying for a glass of beer for those present at the commencement of the concert or meeting, is, I think, *a very objectionable practice.*

Baron Pollock, in the Lancaster Petition, also gives this note of warning :—

Now, we may first consider what these smoking concerts were. A Conservative Association had been established for some time, and part of its duty would be, of course, to see that the register was accurately kept, to look after voters, strike out those who were dead, and keep the register clean and clear for working purposes, and then to see each year from time to time that all

those who were members of the party were got together, and also that any persons who might be wavering in their political opinions were, if possible, converted to what they believed to be the better opinion. But after a time it was thought that the mind of the working classes could be better got at by these smoking concerts, which were said to combine "pleasure and politics."

Now, politics are not the only matters in which this sort of thing has been pursued. One has heard even of very learned societies of whom it has been said that, with all their learning, with all the wisdom of their lectures, they would not entirely succeed unless there was a little *conversazione*, ladies being present, with tea, coffee, and other amenities, which to these people are perhaps at least as agreeable as the beer is to the others. Accordingly these smoking concerts were formed; they were held from time to time; and it is reasonable to say they would have been held, whether an election was coming on or not, as part of the scheme.

Now, therefore, before it is said that this practice is illegal, one must look very carefully, first, to see what the practice is, and, secondly, to see what the law condemns. The practice—which is a bad one in the view of temperance people, and I should say for myself not a fortunate practice certainly, especially where you are dealing with the working-classes—was that the entertainment commenced by the gentleman, whoever he was that occupied the chair, to use the common rough language, "standing drinks all round."

I do not suppose, from the way it was done, that it was likely to lead to any very serious consequences; but *still I should deprecate it*. It is done from month to month, and from year to year, and you cannot expect that it should be stopped because an election is coming at some time. That being so I do not think it can be said (Colonel Foster is out of the question) that because Mr. Bottomley, who was deeply interested in the Conservative Association, went to these meetings, and because he was afterwards appointed an agent of Colonel Foster for the election—his election agent in fact—therefore those who went there made themselves party to a system of bribery. When you come to look at the thing in a fair and reasonable spirit, and see what did take place, I think it is impossible to come to that conclusion. Therefore I shall say no more about that class of treating.

But if the candidate were present, or if he or his appointed agent had provided these drinks, there is no doubt that treating would have been established.

Nursing a Constituency.

The question as to the meaning of "nursing" a constituency and the extent to which it can be legitimately carried on is a very open one; but Baron Pollock, in the Lichfield Petition, thus distinguished between legitimate and illegitimate nursing:—

I for one have always felt that the modern form—which has in some sense necessarily taken the place of the older form of corruption and bribery—of coming to reside in a place, taking a course that is altogether abnormal from the usual course of social and citizen life, and "nursing" a place, as it is called, and from time to time taking every step to shake the minds of the voters, and to make them less firm in their honest convictions by reason of that course of conduct, is to my mind worse if possible, because it is more insidious and more mischievous in its consequences, than the old simple form of giving a man the known and customary sum for his vote.

You cannot by any *ex post facto* act give that act [corrupt and illegitimate nursing] a retroactive effect so as to make that which was legal at the time illegal and criminal at a later date.

Undue Influence.

The old definition of undue influence has been thus expressed by two Irish Judges:—

A minister of religion must not hold out hopes of reward here or hereafter, and he must not use threats of temporal injury, or of disadvantage, or of punishment hereafter. He must not threaten to excommunicate or withhold the Sacraments, or expose the voter to any religious disability, or denounce *the voting for any particular candidate* as a sin, or as an offence involving punishment here or hereafter.

The refusal to sign a pensioner's papers because the elector refused to promise to vote as requested by the priest was held to be undue influence.

"It was not lawful for the bishops or clergy to declare it to be a sin to vote in a different manner from them, or to threaten to refuse the Sacraments."

Passages in a bishop's pastoral were held to be liable to exercise undue influence, and the adoption of the clergy as canvassers was held to make the sitting member responsible for the bishop's pastoral, and for the undue influence of the clergy.

Intimidation by violence and by riot to void an election must be shown to be so general that persons of ordinary courage have been deterred from voting at the election; but where the disturbance has only been local and confined to one or two polling districts, and not to all or any great proportion, the question of the amount of the member's majority becomes important.

But where the violence is general the election is void in spite of the fact that a majority of the whole electorate did vote for the sitting member.

The test case for Intimidation by Violence is the North Durham case, 1880: and for Undue Influence the most recent decisions are North and South Meath, 1893.

Penalties.

The penalties for bribery, treating, undue influence, and corrupt practices, defined by law, are as follows:—

To briber or bribed—

Twelve months' imprisonment, with or without hard labour, or a fine of £200.

Deprivation of the right of voting for seven years.

Removal from and disqualification for any public office.

Payment of the costs of the election inquiry.

If offences committed by candidate—

Loss of seat, if elected.

Disqualification for ever from representing that constituency.

If corrupt practice committed by agent—

Candidate disqualified for seven years from sitting for the constituency.

Proceedings must be commenced within twelve months of the commencement of the corrupt practices, or within three months of the report of the Commissioners.

Illegal Payments and Practices.

No person who receives payment for the work done must be employed as a canvasser.

No person employed as a registration canvasser, and therefore presumably and permissibly paid, must be employed as a volunteer canvasser for any candidate during the active work of an election. But he may be employed as a clerk or messenger if within the number allowed.

Under the guise of a registration canvass, election work must not be carried on all the year round. Registration canvassers should be instructed to ascertain the politics of each elector, and not to ask if he will vote for or against a particular person.

The following are examples of illegal payments and practices :—

Publishing bills, placards, notices, or posters without the names and addresses of the printer and publisher. Although the Statute requires the name of the printer on election literature the Judges have held that it is not necessary to apply for relief where an address, in the form of a letter, to which the name and address of the sender are affixed, has been sent out.

Payments or promises for payment for marks of distinction (which include hat cards). The mere printing of a card with the candidate's portrait and letterpress asking for a vote is not, however, in itself a mark of distinction.

Payments or promises for payments for bands of music, banners, torches, flags, ribbons, &c.

Lending or using, for the conveyance of voters to the poll, vehicles or animals usually kept and licensed for hire. This prohibition is absolute for Parliamentary and Municipal elections.

Payments for baiting, or tips to drivers of the vehicles of friends lent for the election.

Employing persons above the number provided for in the Statute as clerks, messengers, and polling agents. Men must not be employed to give away cards or as sandwich men outside the polling booths, or to keep order at election meetings.

Using an excessive number of committee rooms, or using or hiring as committee rooms rooms situate

in any licensed house, refreshment house, or public elementary school, or the dwelling-house of a schoolmaster adjoining any such school.

Paying or receiving money for the conveyance of voters to or from the poll.

Paying money to an elector for exhibiting posters, placards, advertisements, &c., except where such exhibition or advertisement is the *ordinary* form of business of an elector as advertising agent.

Voting when prohibited by statute: *e.g.* voting when employed for hire or payment during the election contest.

An elector who is employed in one division of a divided borough is debarred from voting in another.

Payment of money to induce the withdrawal of a candidate is an illegal practice; so is the publication of a false statement as to the withdrawal of any candidate.

The payment of any expense not returned in the election expenses is an illegal payment.

No expense must be incurred or payment made during the election except by and through the election agent, and with his written authority, or in a county by a sub-agent.

Any person incurring an illegal expenditure will be liable for the payment of the amount, and also to a fine of £100.

The penalties for any illegal practice are—

A fine of £100.

Incapacity to vote for five years.

If committed by the candidate, or by his agent or county sub-agent, voidance of the election.

Illegal Hiring and Payments.

“Illegal Hiring” received a new definition in the Lichfield Election Petition, because it was then held, and very properly, that the payment for the “baiting” of horses and putting up of vehicles brought from all parts of the country was an illegal payment. The reasons for such a decision are best given in Baron Pollock’s own words:—

But when I come to the baiting, I think it is desirable that something should be said. The baiting depends upon Section 7 [of The Corrupt and Illegal Practices Prevention Act, 1883], the words of which are very general, because the words are: “No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made (a) on account of the conveyance of electors to or from the poll, whether for the hiring of horses or carriages, or for railway fares, or otherwise.” I should prefer to rest my judgment upon that Subsection (a), not using the word “otherwise.” It may be that, coming after “railway fares,” it may mean something else; but I think it is impossible to say that, not only when there has been one accidental baiting of a single horse or something of that kind, but when there has been a systematic arrangement, as of course in some sense there must be where it is done, a systematic arrangement by which vehicles shall be got within range of the poll, and where the distance is such that they must come there overnight, and possibly leave next day, that baiting should be provided for them, I think it is impossible to say that such a payment for baiting is not a payment “made on account of the conveyance of electors to and from the poll.” It is quite clear to me that this matter of the baiting is as much included as the hiring of the vehicle itself.

In the same case Mr. Justice Bruce expressed in the following words his opinion that the payment for baiting was an illegal payment:—

There are several charges made of illegal payments. These charges involve the question whether payments made for stabling

and baiting horses, and putting up carriages, and lodging and feeding drivers, to enable voters to be carried to the poll are to be regarded as payments made on account of the conveyance of electors to the poll within the meaning of the Seventh Section of The Corrupt and Illegal Practices Prevention Act, 1883. Many of the carriages came from Birmingham, a considerable distance—I think about fifteen miles or more; and in order that the carriages and horses and drivers should be available for the carriage of voters on the day of the poll, it was necessary that they should be put up over night. It is not necessary to consider the question whether there would have been anything illegal in the friends of the candidate paying these expenses themselves.

Therefore it would, in my opinion, be equally illegal to pay the coachman or driver of a private vehicle, or even for the candidate or his agent to give him tips; it would bring the payment or gratuity within the purview of this judgment. It will be noticed that so far no judgment or even *obiter dictum* has yet dealt with the case of “jobbed horses or jobbed carriages,” but I still adhere to my opinion that where carriages or horses are jobbed for the season or the year they may be used with safety, and that even if the Election Judges held that there had been a technical breach of the Statute, I am confident they would grant relief if this were the only illegal practice proved.

Trivial and Unimportant Payments.

The meaning of trivial and unimportant payments was very fully discussed in the Stepney Petitions of 1886 and 1892, and received the final limitations at Southampton in 1895, when Mr. Chamberlayne was unseated and relief not given. The Judges came to the conclusion in the last-

mentioned case that a certain payment of two shillings was "trivial and unimportant" in its character. In his judgment Mr. Justice Bruce said—

I attach importance to that word *character*. The Act of Parliament does not say "trivial and unimportant" in its *results*. It may be that an act that is trivial in its character may be important in its results. The words in the Act of Parliament are "trivial and unimportant in its character," and if any payment of an illegal fare can be "trivial and unimportant," I think the payment of a sum of two shillings must be considered as "trivial and unimportant."

Banners and Marks of Distinction.

The prohibition of banners is clear, because they are specifically prohibited by Section 16, Sub-section 1. Flags are equally illegal, providing that the payment or contract for payment is made for the purpose of promoting or procuring the election of a candidate at any election. The ordinary etymological meaning of "banners" in Webster's Dictionary has been accepted by the Judges, and moreover they have expressed their doubts whether a canvas cover with placards denoting an election room is not also an offence within the Statute if paid for by the candidate or agent.

It will be remembered that in the Stepney Election Petition of 1886 there was an *obiter dictum* that the provision of a banner by a volunteer, not acting as an agent for a candidate, in no way incriminated that person; but it is clear that payment or contract for payment "on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction," is very wide, and would certainly

include Primrose buttons or other ornaments of the League, if used for the purpose of promoting or procuring the election. Hat cards were declared illegal on the ground that they were marks of distinction, although when used as an ordinary election placard, and without that designation or the band for the hat, they would hardly come within this section. It is only another proof of the absolute necessity for candidates and agents to keep within the four corners of the Act of Parliament.

Hat Cards.

The first hostile decision at Walsall, and the unseating of the member, was due to the use of Hat Cards, and raises a very important question in election literature, as in both metropolitan and rural constituencies a portrait of the candidate is generally either on the poll card or in some form of electoral advertisement. As regards the specific card at Walsall, it was held to be illegal on the ground that it was specially shaped as "a mark of distinction," and that contracts were entered into describing the card as a hat card. Where, however, the picture or portrait forms part of an election notice, placard, or advertisement, and cannot be actually called a "mark of distinction," it is probable that it would pass muster with other election literature. There is no doubt that in the North of England these hat cards were largely used by both sides, and did form a very effective and distinctive mark amongst the supporters of the various candidates.

Banners.

Banners, as well as Hat Cards, are oftentimes a great source of danger to candidates through the over-enthusiasm of their agents. The decision in the St. George's-in-the-East Election Petition amplifies, though to some extent it moderates, that of the Judges at Walsall. In this case Baron Pollock, in his judgment, said :—

To vitiate the election (under Section 7 of the Act of 1854) there must be a payment for banners by the candidate or his agent, and of such payment no evidence was given by the Petitioner, and it was negatived by the Respondent.

Then we come to a charge under Head 8, and later on: viz.—That of knowingly providing money for a payment of these so-called banners. Now it happens that in the preparation of the particulars of this case the section of the Act of Parliament which deals with banners is not quoted in its entirety, but the charge is confined to the word “banners”; and it also happens that all payments that have been made in respect of materials which were necessary for providing the so-called banners are not included in the particulars. The items that are included are Numbers 14 and 15 in the particulars, which include those dated the 19th and 23rd July, 1895, the first being a payment to a man named Chamberlain of £1 8s. 6d. for putting on laths at the top and the bottom of banners, and the second on the 23rd of July, being a payment of a similar kind to Jones of £3 10s. 10d., the total amount being £4 19s. 4d. Therefore, for the purpose of this case, the Respondent in his counter-charge is confined to those particular payments. Before I deal with the evidence I would shortly allude to one provision in the last Act of Parliament which has been passed on this subject, The Corrupt and Illegal Practices Prevention Act, 1883. Section 16, Sub-section 1, of that Act provides that “no payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction,” and the Second Sub-section says that “if any payment

or contract for payment is made in contravention of this section, either before, during, or after an election, the person making such payment shall be guilty of illegal payment," and that is made an illegal practice by another section.

Now a good deal has been said about this Act of Parliament, and, among other things, that it raises thereby a technical question. To my mind it is not at all technical. The offence is not, happily, and of course it ought not to be made, a corrupt practice, because the providing of a banner is not a thing showing that the man who provided it had any wicked or corrupt intention: but the law is the law, and so early as the year 1854 an Act of Parliament was passed, which is still in force, containing a section very similar to this, but not quite so extensive; and therefore it is idle for those who have the conduct of elections—that Act having been passed in 1854, and this later Act having been passed in 1883—to say either that they are ignorant of the law, or that it is such a very slight matter that they need not trouble to obey it.

The object of the Legislature is this, that candidates, by all their conduct and any speeches they make, should appeal to the sound intellectual judgment and opinion of the electors, and should not appeal to their baser instincts, which we well know are often moved by such things as lavish expenditure, mere display, or by the exhibition of marks of distinction. Having said that I come to this section. It is clear to my mind that the words "marks of distinction" are not limited to the last two words preceding them—"cockades" and "ribbons"; that flags and banners also may be marks of distinction. That was clearly the opinion of my brother Vaughan Williams, when he said he thought a mere Union Jack, or a notice "This is the Radical Committee Room," would not be contrary to the Act, because such a banner would have no mark of distinction; and therefore I think that a banner, or anything like it—apart from the question of its being a banner or not a banner—may be a mark of distinction; and to my mind it is absolutely clear that whatever may have been the intention or the idea of the person who ordered these large photos—some printed on linen, and some on paper—they in themselves were marks of distinction. As however, the Respondent, by his particulars, has confined himself to the word "banners" alone, and to the fixing of laths upon those banners, the words "marks of distinction" are not applicable in the present case, except in this way:—If it should be said that there would be hardship in dealing

with a person who has broken the law in this respect, it is obvious that it is not the case of a man who has ordered a thing for one purpose, and found it used by other persons, to suit their interest, for a perfectly distinct and different purpose, for which, in the first instance, it would not be an appropriate thing to use. I think no one would have ordered these things—no one could have seen them used as banners—without seeing that they were within the spirit of the Act of Parliament, and, so far as the words “marks of distinction” go, within the wording. Now, as to the evidence in this case, it would serve no purpose if I were to go at any great length through the reasons that have led me to the conclusions at which I have arrived; but I have taken great pains to make an analysis of all the evidence upon this head, and I find, with regard to the banners being carried by boys, there were six policemen, seven boys, and eight householders—altogether twenty-one persons—giving evidence of their use. As to banners across the street, hung from houses, there were again the same six policemen and there were ten householders, making altogether sixteen—some of them, of course, the same persons.

The last decision, three years ago, was one *that ought to have put all persons upon their guard*, and must have done so if they had paid the ordinary attention which they ought to pay to election matters.

What is a Banner? Is a Banner a Mark of Distinction?

The whole question of illegal payments for banners, and the distinction between a notice card and a mark of distinction, is treated with such great care by Mr. Justice Bruce in the St. George's-in-the-East Election Petition, that, for the guidance of agents and candidates, the material portions of his judgment on this point are set out below:—

In the Pontefract Case the Judges differed as to whether a payment made for cards which had been used as polling cards and also as hat cards should be treated as a payment for marks of distinction.

The cards were not used or intended to be used as invitation cards; they were used and intended to be used to signify that the persons using them or exhibiting them were supporters of the Petitioner. They were distinguishing badges, and could be used for no other purpose. The manner in which they were to be used as distinguishing badges, whether on houses or in processions, or otherwise, is, I think, of little moment, except as regards the question whether the offence charged is covered by the description in the particulars. The charge in the particulars relates to payments for banners, and I am not desirous, in a serious case of this kind, of travelling out of the particulars.

It is said that these badges were never intended by the Petitioners to be used as banners.

They were certainly adapted to be used as banners, although they were adapted also to be nailed on houses; banners were a feature of the election. There were used on behalf of the Petitioner trades union banners, temperance banners, and banners provided by the supporters of the Petitioner hung across the street in several places, and the long banner prepared for the election of 1892, which was brought out in 1895, when banners were thus in vogue during the election. What would be more likely than that some of these linen portraits fitted with laths at top and bottom should be used by the Petitioner's supporters as banners in processions, and should be exhibited from windows—not slung on lines across the streets? If these linen portraits were given out in large quantities to enthusiastic supporters of the petitioner, any reasonable person would know that some of them would almost certainly be used as banners.

I entertain no doubt whatever that these linen portraits were used—on some occasions slung across the street, on some occasions projecting from windows, on several occasions by the boys in procession, and by boys when singing one or other of the two coarse songs of which we have heard so much. It is, I consider, impossible for this to have taken place, as it did take place, without those who were acting on behalf of the Petitioner at Gladstone House knowing what was taking place. The boys were certainly taught to sing the song "Vote, vote for Benn" at Gladstone House; they went about the streets in bands singing the song, and there must have been some drilling or marshalling of the boys at Gladstone House for the purpose of their forming a band to sing. I cannot bring myself

to the conclusion that those at Gladstone House did not know that the boys used the portraits as banners, and did not knowingly allow them to use them as banners. The Petitioner acted as his own Election Agent, and he must have known when, after the election, he made the payment for fixing the laths to the linen portraits, that many of the portraits so fitted with laths had been used as banners; and when he made the payment he made the payment on account of banners, I think, within the meaning of the Sixteenth Section of the Act of 1883.

After the foregoing clear and definite pronouncement it will be almost impossible for any notices of this class to pass muster in street decorations or for advertisement purposes at election times. The old adage that "a man who is his own lawyer has a fool for his client" is well known; but where a candidate acts as his own agent he seems to be in even graver peril.

Mr. Justice Bruce also added a few words—but important words—on the question of banners only:—

The Seventh Section of the 17th and 18th Victoria, Chapter 102, renders it unlawful for a candidate in regard to an election, by himself or his agent, directly or indirectly to give or provide to or for any inhabitant of the borough for which such election is had any cockade, ribbon, or other mark of distinction.

The Sixteenth Section of The Corrupt and Illegal Practices Prevention Act, 1883, enacts that no payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made on account of flags, banners, cockades, ribbons, or other marks of distinction, and the section enacts that the person making such payment shall be guilty of illegal payment. So far back as 1854 the Legislature discouraged the providing of marks of distinction, and rendered payments for or on account of marks of distinction illegal payments. The more recent Act of 1883, in somewhat different language, prohibits the payment for banners or other marks of distinction. Mr. Justice Vaughan Williams, in his judgment in the Stepney Case [in 1892], stated that

he considered the words "other marks of distinction" as the governing words of the clause, in the sense that they qualified the words that went before. At all events, the words "marks of distinction" are important words, and they must be carefully considered in order to arrive at the meaning of the enactment.

It is, I believe, because these words have not always been considered that in some cases difficulty has arisen as to the understanding of the section. What is meant by marks of distinction? Marks of distinction, I think, are party badges, indicating by their colour or shape or otherwise that the person using them belongs to the party of one of the candidates. A thing that contains no address, and gives no information respecting the opinions of the candidates, but is simply intended to be used to indicate that the person exhibiting it, or inhabiting the house on which it is exhibited, belongs to a particular party, is, I think, a mark of distinction within the meaning of the Act.

The Legislature intended to draw a wide distinction between spending money on bills or placards or circulars requesting assistance or support in the election, or giving information respecting the opinions of a candidate, or the places where his meetings are to be held, or the time and place and manner of voting, and spending money in things that are mere badges, and can only be used to make a show. I cannot regard the pieces of linen with the Petitioner's portrait on them, and the words "Vote for Benn," as anything more than party badges. I can draw no distinction between the words "Vote for Benn" and the words on the strips of canvas in the Stepney case "Isaacson for Stepney." The portraits on linen to the number of 120, and portraits on paper backed with linen to the number of 1000, were mounted on laths, in order, it is said, to be nailed to the houses throughout the constituency. But even so I think that they would still be marks of distinction. I adopt the language of Mr. Justice Cave in the Stepney case, in which he says: "What was intended to be struck at was the waste of money at elections which served no useful purpose at all. A maximum was fixed; this, that, and the other mode of spending money was made illegal; and that is, as it seems to me, partly for the purpose of preventing waste of money; and if it has any other object it is that of preventing a man gaining a false show of popularity by laying out his money in flags and banners, and ribbons and cockades, and things of that kind." As I put it in the course of the argument,

there are a number of persons whose political feelings are extremely weak, to the extent of being sometimes non-existent, and who, if they care to vote at all, like to be in the majority. Everyone knows what a powerful influence that exercises, and how important it is to win the first elections that are decided, because there are many people who love to go with the flowing tide. It seems to me that if there were any object beyond the diminution of needless and useless expense, that may have been the object which the Legislature had in view. If that were so, of course it is immaterial whether the banner is carried about the streets or whether it is fixed upon a house. In either case, if the place is covered with blue canvas advertisements or red canvas advertisements, as the case may be, hanging on private houses, the result undoubtedly produced is an impression that the parties who display the most of those decorations are in the ascendancy.

Personation.

This offence is unfortunately much indulged in in large centres of population, especially on an old register. The following are examples of personation:—

Applying for a ballot paper in the name of another person, whether living or dead.

Voting twice, or voting for two divisions of a divided borough at the same election.

Aiding or abetting or procuring personation.

Forging or counterfeiting a ballot paper.

The mere attempt to procure a ballot paper by personation brings the person so applying under the penalties of the Statute.

Penalty—Two years' imprisonment with hard labour. No fine can be levied, nor is the Judge allowed any discretion as to imprisonment without hard labour.

CHAPTER XII.

THE CORRUPT AND ILLEGAL PRACTICES
PREVENTION ACT, 1895.

LORD JAMES has added to the many obligations under which he has already placed candidates for Parliament by introducing into and obtaining the assent of Parliament to an Act amending The Corrupt and Illegal Practices Prevention Act, 1883, by which candidates are enabled to immediately restrain the circulation of false statements in any way reflecting upon their character. Such an Act was sorely needed, for the evil was widespread. Every agent knows how the spirit of prevarication is abroad at the time of an election.

Of course, even under the amending Act it will be very difficult to trace slanderous rumours to the source whence they emanated; but where a statement is printed and published, this Act gives a speedy and prompt remedy. Upon application being made in the Croydon election, Mr. Justice Day exercised the powers given him by granting in Chambers an interim injunction under Section 3; and Mr. Mead, the Stipendiary at the Thames Court, also fined the publisher of an East End newspaper for an offence under Section 1, and rendered him subject to the consequent disqualification for an illegal practice.

Mr. Samuel Storey also brought an Election Petition against one of the sitting Members for the Borough of Sunderland under the provisions of this Act. The *dicta* of the Judges in this case are very valuable for the purpose of showing the steps which must be taken, and the facts which must be proved, before such a Petition can be successful.

As the Statute is one which should be studied by all interested in contested elections the full text of the Act is given below, together with such Notes as will enable the Statute to be better understood by the light of the decisions under the Act of 1895.

THE CORRUPT AND ILLEGAL PRACTICES PREVENTION ACT, 1895.

(58 & 59 VICT. c. 40.)

1. Any person who, or the directors of any body or association corporate which, before or during any parliamentary election, shall, for the purpose of affecting the return of any candidate at such election, make or publish any false statement of fact in relation to the personal character or conduct of such candidate shall be guilty of an illegal practice within the meaning of the provisions of The Corrupt and Illegal Practices Prevention Act, 1883, and shall be subject to all the penalties for and consequences of committing an illegal practice in the said Act mentioned, and the said Act shall be taken to be amended as if the illegal practice defined by this Act had been contained therein.

Certain
false
statements
concerning
a candidate
to be an
illegal
practice.

46 & 47 Vict.
c. 51.

Section 1.—The qualifying words “or the directors of any body or association corporate” are added because, newspapers and printing offices being in so many cases in the hands of registered and limited liability companies, it would be exceedingly difficult, if not impossible, for the person upon whom the statement reflects to ascertain the person or persons responsible for the printing and publication of the incriminating matter.

In the Sunderland Election Petition Baron Pollock thus expressed his opinion of the foregoing section:—

“It provides that ‘any person who, either before or during any Parliamentary election, shall, for the purpose of affecting the return of any candidate at such election, make or publish any false statement of fact in relation to the personal character or conduct of such candidate, shall be guilty of an illegal practice.’ The principal words here are ‘any false statement of fact’; but if it be a false statement of fact, and it be in relation to the election and to the personal character or conduct of the candidate, this Court has nothing whatever to do with the question which arises in cases of libel as to whether there was malice or as to what would be the effect otherwise upon a false statement, which would have to be considered if this were the case of an action for libel. Any false statement, whether charging dishonesty or merely bringing a man into contempt, if it affects or is calculated to affect the election, comes within this Act. I would give two illustrations that have occurred to my mind as showing the meaning of this. Some perfectly innocent acts may be done by people, and yet they may come, if they are stated to be done in this way, within the Act. Supposing any gentleman in a county constituency was to say of his adversary that he had shot a fox, and he did it for the purpose of working upon the minds of the constituency during an election, that would certainly come within the meaning of the Act. Again, if any person in a constituency, where one of the Members was a temperance man, were to say that he had seen him drinking a glass of sherry—a perfectly innocent act—that would also bring him within the Act. Therefore there is no doubt or difficulty about that part of the question. A greater difficulty, no doubt, does arise when you come to consider what is a statement of fact, and here I utterly decline to give anything like a definition, and certainly no one will quarrel with the decision of the Court of Appeal in the recent case of *Bailey v. Edmonds*, because it is obvious that an adjective, or even an adverb,

may carry with it such a sting as to be a statement of some particular fact; but when you come to consider what is meant by a fact, a great many considerations arise before the Court, when they come to consider the particular language used, can decide what is a fact and which is a false statement. In the first place, it is obvious to everybody that a mere argumentative statement of the conduct of a public man, although it may be in respect of his private life, is not always, and in many cases certainly would not be, a false statement of fact. In the present case, if one were not to look beyond the present words that have been mentioned and so strongly attacked, I should say, speaking for myself, that I should consider very carefully before I held that such words as a man paying 'wretched wages,' a man having 'cleverly shelved,' or being 'forced to do' a particular thing, or having sheltered himself under a 'Radical shuffle,' were facts which would bring the person who used them within the Act; but I certainly should not let the man who used these words go scot free without I carefully considered all the surrounding circumstances, such as who used them, the meaning they were supposed to bear, and all the other circumstances of the case.

"There is one other thing that I am very clear upon, and that is this:—That if you quote an article from another paper, you make any absolute facts stated in that article a part of your own statement by saying, 'Oh, but if you look at my newspaper you will find we read in the evening paper that Mr. So-and-So had committed a forgery.' A man has no right to do that; but if a man does what was done in this case—quotes from *The Labour Leader* an article that appeared some time back, and says that *The Labour Leader*, under the heading of 'Mr. Storey as an Employer,' said so-and-so, and observed something about the payment of the men, and then says that *The Labour Leader* in its article said something about seeing the wretched wages he had paid, and that he (the Radical employer) does not want to make a profit out of the reduction of the wages, but he very cleverly shelved the whole matter—that is a statement of a course of conduct which is alleged on the one side by *The Labour Leader* and contradicted on the other by the person of whom it is written. That is not to my mind 'a statement of fact' in the sense in which it is intended in this Act of Parliament."

Evidence of
hearing of
charge
under the
Act.

2. No person shall be deemed to be guilty of such illegal practice if he can show that he had reasonable grounds for believing, and did believe, the statement made by him to be true.

Any person charged with an offence under this Act, and the husband or wife of such person, as the case may be, shall be competent to give evidence in answer to such charge.

Section 2.—The second paragraph of this section is now unnecessary, as by the legislation of 1898 every incriminated person can give evidence on his or her own behalf.

Baron Pollock thus deals with this section:—"The Second Section is one the spirit of which all English lawyers are familiar with: that is, that you do not, as a rule, make people responsible for things that they may say or do, if they have reasonable grounds for believing, and do believe, that the statement made by them is true. We have had that from all time in our Common Law cases of malicious prosecution.

"If a man admits that he did prosecute somebody, but says, 'I did so because I had reasonable grounds for believing that he was guilty of the offence with which I charged him,' then the Judge himself is to be the judge of whether it is a reasonable cause or not. In Scotland and in America they have taken what is, perhaps, the more reasonable view—that it is a question for the jury and not for the Judge.

"I think all the observations I have made with regard to a statement made by the candidate himself apply to statements made by an agent, and they apply, I think, with greater force, because it is impossible to suppose that an election agent can have quite the same careful discrimination as to the language he uses as the candidate himself might have, or is supposed to have, in dealing with the more important matters of the election, whereas the election agent has a great many matters to deal with, and he might very well take a representation as true, which, if it was more sifted, might perhaps be found was doubtful. *But still it is not, of course, enough for him to say 'Somebody told me so.'* In each case it must depend

not merely upon the person who told him, but it must depend upon the character and nature of the information that is given to him.

"If a man procures from some stranger in the street [Mr. Balfour's 'man in the street' is now the more accepted term] a statement that some person he knew had committed a murder or robbery, and he went and promulgated it without any further inquiry, no one could doubt that he would be within the section, and would not be protected. If, on the other hand, he heard that from two or three highly respectable persons who must know the truth of it, he would be protected."

There must be a *bonâ fide* belief in the statement, which must be made upon an authority which can be produced and tested, although it may turn out to be unreliable.

3. Any person who shall make or publish any false statement of fact as aforesaid may be restrained by interim or perpetual injunction by the High Court of Justice from any repetition of such false statement or any false statement of a similar character in relation to such candidate, and for the purpose of granting an interim injunction *primâ facie* proof of the falsity of the statement shall be sufficient.

Injunction
against
person
making
false state-
ment.

Section 3.—This section is of the greatest value to a candidate, because it enables him to make a prompt application to a Judge at Chambers for the granting of an injunction to restrain the repetition of false statements reflecting upon his character. If the injunction be granted due publicity can be given to the fact throughout the constituency, and any further repetition of the false statements would then be a "contempt of Court," with all its attendant consequences.

Agents will note that all that is required for the obtaining of the injunction is a sworn denial of the facts alleged by the person so attacked, with *primâ facie* proof of the mere falsity of the statements; the surrounding circumstances of the case will not be gone into.

Candidate
exonerated
in certain
cases of
illegal
practice by
agents.

4. A candidate shall not be liable, nor shall be subject to any incapacity, nor shall his election be avoided, for any illegal practice under this Act committed by his agent other than his election agent, unless it can be shown that the candidate or his election agent has authorised or consented to the committing of such illegal practice by such other agent, or has paid for the circulation of the false statement constituting the illegal practice, or unless upon the hearing of an election petition the election court shall find and report that the election of such candidate was procured or materially assisted in consequence of the making or publishing of such false statements.

Section 4.—In his judgment in the Sunderland Election Petition, Baron Pollock thus comments on this section :—“The section provides that ‘a candidate shall not be liable, nor shall be subject to any incapacity, nor shall his election be avoided, for any illegal practice under this Act committed by his agent other than his election agent.’ Subject to certain exceptions, in this case it is quite clear that Mr. Hedley was the election agent, and that for his acts in this respect Mr. Doxford is liable.”

Baron Pollock then discusses very carefully whether any person other than the election agent may, for the purpose, become agent for such publication :—“With regard to Howitt, I should have doubted myself whether it was quite clear he became an agent for the purpose of this procedure, merely *because in his office and by his people* these things were printed and sent over to Mr. Hedley for the purpose of being disseminated. But I can have no doubt in my own mind, when I hear the evidence given by Mr. Hedley himself of what use he made of Howitt : namely, that he was aware that Howitt knew a great deal more than he himself knew, Howitt having been the manager of the newspaper for some time, and when he was considering what sort of document he could fire off which would be useful for the purposes of

an election, he availed himself of Howitt's knowledge for the purpose of assisting his own mind, and the article which was sent out was the joint production of those two men. Under these circumstances, I think that, although he was not the election agent, he was the agent of Mr. Doxford."

Mr. Justice Lawrence said that "the question the Judges were trying was whether these people had reasonable grounds for making the statement they did," and upon these grounds, the Judges held that the individuals charged had good reason for believing in the truth of the statement, and the petition failed.

Agents must not, therefore, think they can escape liability, on their own part or on the part of their candidate, by merely getting some third party to concoct the article, pamphlet, or attack.

5. This Act may be cited as the Corrupt Short title, and Illegal Practices Prevention Act, 1895, and shall be construed as one with the Corrupt and Illegal Practices Prevention Act, 1883.

False Statements.

At St. George's-in-the-East, as at Sunderland, a local editor, who had been attacking the Radical candidate, was convicted under the Act of 1895, and it also formed one of the charges in the petition against the return of the sitting Member. In his judgment in the former election petition, Baron Pollock commented on the responsibility of the sitting Member for the act of the editor who had been convicted, and said:—

The only question for consideration is whether the Respondent was liable for the act of Mr. S—, and this is governed by the recent Statute of 1895. Section 1 of this Act makes it an illegal practice for any person who, before or during an election, for the purpose of affecting the return of a candidate, makes or publishes any false statements in fact in relation to the personal conduct or

character of a candidate; that makes it an illegal practice. Section 4 provides that a candidate shall not be liable for such an illegal practice committed by his agent other than his election agent, unless it can be shown that the candidate or his election agent has authorised or consented to the committing of such illegal practice by such other agent, or has paid for the circulation of the false statement constituting the illegal practice, or unless upon the hearing of an election petition the Election Court shall find and report that the election of such candidate was procured or materially assisted in consequence of the making or publishing of such false statements.

It was not suggested that the election agent had taken any part in the printing of the statement in question. With regard to the Respondent, in his evidence before us he swore that he had no knowledge of it until he read it in the newspaper after its publication, and this was corroborated by the fact that, as soon as it came to his knowledge, he made a statutory declaration before a commissioner, swearing that the article was written and published without his knowledge, and that he knew nothing about it until he saw it in print. He had copies of the declaration printed and circulated throughout the district. We find this to be a true statement, and we also find and report that the election of the Respondent was not procured or materially assisted in consequence of the making or publishing of the false statement.

At Sunderland, the Conservative agent rendered himself responsible by practically giving the matter over into the hands of the gentleman who circulated the statements complained of, which formed part of Baron Pollock's decision in that case.

CHAPTER XIII.

BOROUGH AND COUNTY MEETINGS.

On this subject there has always been a great diversity of opinion, and there must continue to be not only a difference of opinion but of experience as to the method of calling the meetings, the suitability of school rooms or licensed premises, and as to the quality and size of the gatherings. No doubt large meetings do a great deal to encourage the general supporters of the party, and at election times to deepen the enthusiasm of the workers; but, valuable as large meetings may be, the real work of developing the organisation and enlisting new supporters must in the majority of cases be done by small meetings in the boroughs and by village meetings in the country districts.

Borough Meetings.

In large towns the meetings held at the public halls generally secure the same people (friends and opponents) over and over again; but by mapping out each polling district, and securing ward meetings of from about 100 to 200 electors, an active committee is more easily formed, practical discussion takes place, and the candidate or member can get into personal touch with his supporters.

A plan which has met with great success in the Metropolis has been to invite from 200 to 400 persons in each specified district to a ward meeting. The invitation is sent by post, and is in the form of a letter, with the request that the letter be presented at the meeting, so that those who do attend may be checked and their names marked, if supporters, on the register. If possible the member or candidate should be present to receive and personally welcome those invited to the gathering; and after a short address from him, or his agent, or a personal friend, the meeting should assume a conversational character, those present being invited to discuss, not only the questions of the hour, but the local requirements, and to offer suggestions as to organisation and work and local subjects which interest the electorate. Such meetings as these should be held at least once a year, and the number of ward meetings held should be sufficient to include the whole of the electors on the Parliamentary Register. The more frequently, in reason, such meetings as these are held the better. The presence of the member or candidate should not be a *sine quâ non*, though, of course, he will attend as often as possible, in order to become better acquainted with the electorate, its wants, feelings, and aspirations.

These ward or district meetings should be arranged by and held at the expense of the local association. They should be for the dissemination and elucidation of political principles and imperial and local intelligence. They should have for their object the formation of an

esprit de corps and a community of feeling amongst the Unionists of the district. But they should not be held in the interest of or their expense be paid by any particular person, whether he be member or candidate or possible candidate. This should be made very clear: otherwise the expenses of such meetings would probably have to be returned as election expenses if such person became a candidate at the ensuing election.

Thus, in the Stepney Petition, the fact that a resolution was passed in support of the candidature of Mr. Isaacs was held to constitute the meeting as part of the election, and its expense was therefore an election expense, although the meeting was held by the local association and before the appointment of Mr. Isaacs's election agent.

In view of the real objects of these district meetings (which do not include the glorification of individuals), and in view also of what has been said by the Judges, there should be no resolution of any kind passed at them which in any way relates to an individual who may be, or by any possibility could afterwards become, a candidate. Any resolutions passed at the meetings should relate to the political or local questions of the day, or to the conduct of prominent political leaders not connected with the locality.

With regard to large meetings, easy as it is to bring people together in country boroughs, it is a work of great difficulty in London. In order to secure an interested audience in London the presence of some well-known speaker is necessary, and tickets of invitation should, so

far as possible, be sent out to the known supporters of the cause, with special invitations for the platform, and seats should also be reserved for ladies.

Wherever held, the presence of ladies should be invited and encouraged at all large meetings, especially where the Primrose League is at work. The time has gone by (if it ever existed) where woman was a negligible quantity in political movements. Women of all political parties are especially deserving of all the honour that can be shown them; and, whether Dames of the Primrose League or not, there can be no question that the presence (but not the speeches) of the gentler sex at meetings will often secure better behaviour on the part of political opponents, who in some districts steadily attend and interrupt all political gatherings.

It is not advisable, except in extreme cases, to confine the meeting to ticket-holders; but arrangements will easily suggest themselves to the local managers whereby the presence of friends and supporters can be secured at the gathering.

In the case of a Member of Parliament, it is desirable that he should have an annual gathering for addressing his constituency generally, and in that case it will be well for the local managers to take care that he is supported, both on the platform and in the body of the hall, by political supporters who are well known and can be relied upon.

County Meetings.

Experience in each district must necessarily modify any suggestions that may be offered. The spirit of what has been already said as to borough meetings applies to county meetings, but the latter have some peculiarities to which it may be well to refer.

It is perfectly certain that in some way or other each village in a county constituency should have its annual political gathering, as, no matter how small the village may be, there is generally an idea that it has been neglected if a neighbouring hamlet should secure a visit from the member or candidate, while it has to be content with a joint meeting or no meeting at all. Of course in many cases the aspirant for Parliamentary honours must himself find it impossible to attend: but arrangements should be made for the presence of one local speaker and one reliable speaker from London or the county town, and an invitation should be sent to each elector by post or delivery, with a request that he will attend the meeting held in the village.

Resolutions of confidence are generally unnecessary at village meetings, even at election times. In some places (and herein local judgment must be exercised) they are objectionable, giving, as they do, an opportunity for the moving of an amendment by some noisy and wordy resident, who will rejoice in the opportunity of airing his eloquence at a public meeting. Votes of thanks to the chairman and the speakers, and to the person lending the room, are, generally speaking, all that will be necessary to give an opportunity for speeches from local supporters.

Members of Parliament are really not so much a necessity at village meetings as the presence of some experienced politician, who will take the trouble to discuss political and social questions, and especially questions in which the labouring classes are at the time interested, in the simple language of the country. Unfortunately, in village meetings party speakers too often assume a knowledge of imperial and foreign policy which is not always or perhaps generally possessed by the local mind. Failure ensues. Why? Because there is a want of sympathy. On the other hand, a fluent speaker with no prejudice in favour of truth or common sense will bring down the house by declamations against the Church and parson, and by diatribes against the squire and the wages paid by the farmer. A practised political speaker can, without pandering to the ignorance or the lower nature of his hearers, adapt his manner and language to the understanding and to the edification of the people to whom he is talking. Local details he can gather on the spot. The most cultivated gentleman need never be ashamed of speaking that plain, simple, and nervous English which all can understand, and which William Cobbett used with so much effect, whether his subjects were political or otherwise, when he addressed himself to those whom he pleasantly called "the Chopsticks."

An attempt should always be made to obtain the interest of the young men in shops and offices in village work, as they have long winter evenings unoccupied, and often form a very good band of volunteers for concerts and meetings.

There is also no doubt that a tour by a party of volunteers having a magic lantern, with African, Indian, and foreign slides, will do a great deal in drawing village audiences together and in educating the rural mind in political responsibility. The only danger in these social gatherings is that the political side may sometimes be lost sight of, and therefore they should be attended by some reliable local speakers, who will give short political addresses. The difficulty of creating an interest in a village meeting, when an election is not on, is well known to those who have had to organise such meetings; but the presence of some such attractive factor as lantern slides will assist in drawing an audience, the presence of which should be utilised for political purposes. They should also sometimes form a basis for calling a larger political meeting, when the candidate and one or more speakers of ability should be present.

It may be well to add a hint or two as regards the larger political meetings referred to in the last sentence.

There is no greater mistake than taking down an army of speakers to an ordinary political meeting in a country town. One speaker of ability (or at most two), in addition to the candidate or member, is generally all that is required.

Where the farmers can be induced to bring in their men to the town, a double purpose is served in securing a full house, and in getting the farm labourers to a political meeting, where they may be stirred up by the presence and applause of their town friends.

Here, again, the meeting should be called by the local association, and the resolutions should be of as general a

character as possible. The details of the meeting should not be left till the last minute. The secretary of the association and the registration agent should prepare the agenda, arrange what resolutions are to be moved by the various speakers, and, as far as possible, secure a representative platform.

The local Press should always be invited; and when a report is required of village meetings, arrangements should be made to secure the attendance of the local reporter, and, if necessary, drive him to the place of meeting. If a reporter cannot attend, a brief summary of the meeting should be sent to the local Press.

A very valuable piece of advice was given many years ago by Sir Edward Clarke, that when candidates or members particularly desire some special quotation to appear in the report of their speeches, they should take the trouble to furnish such quotation to the gentlemen of the Press, who, it must be remembered, have not had that experience in country towns, and have not that versatility of literary knowledge, which are part and parcel of the Pressman's training in London and the large centres of population.

CHAPTER XIV.

INVALID BALLOT PAPERS.

In previous manuals on Election Law a chapter has generally been devoted (with illustrative sketches) to ballot papers which have been allowed even though imperfectly marked, and there have been one or two differing decisions upon the validity of a vote owing to the peculiar position or shape of the cross or mark made by the voter. The decision of the Judges at the Cirencester election goes far beyond any of the earlier precedents, for in delivering their judgment they state—

If we have found such a mark—*i.e.* when we have looked at the face of the paper itself with a view to see whether or not the voter has by any mark clearly indicated the person for whom he wished or intended to vote—we have upheld the vote, regardless of the very technical, and, as we think, unsubstantial, objections which have been allowed in some of the earlier cases to be found in the reports of election cases; our view being that we ought to interpret the Ballot Act liberally, and, subject to other objections, to give effect to any mark on the face of the paper which in our opinion clearly indicated the intention of the voter, whether such mark were in the shape of a cross or straight line or any other form, or whether made with pen and ink, pencil, or even an indentation made on the paper, or whether on the right or left of the candidate's name, or elsewhere within his compartment on the voting paper.

The Judges further proceeded to say that they thought they ought to adhere to the language of the Statute itself, and that to invalidate the ballot paper by a mark it must be a mark by which the voter can (not might possibly) be identified. "In such cases we have done our best to discover whether, although obscured by blots, blurs, and other marks, there existed positive indications on the part of the voter of an intention to vote without a thought of leaving behind a trace to enable him to be identified."

With regard to being void for uncertainty, they have laid down—

If it is upon the face of the ballot paper left in doubt whether the man intended to vote for one candidate or the other, the weight of the objection that the vote is uncertain is obvious, for the simple reason that one candidate has just as much right to claim the vote as the other, and so it ought not to be counted for either, as the Statute so enacts.

There is a further decision by these learned Judges on Section 2 of the Ballot Act, where this provision occurs:—

Any ballot paper which has not on its back the official mark shall be void and not counted.

They have also laid down that the Statute does not require that the stamp shall be applied to the back; it merely requires that the back shall bear the official mark:—

We think it is not necessary that there should be in every respect a clear and distinct impression of every part of the stamp, but that it is quite sufficient if the evidence afforded by that which appears on the back of the paper leads us to the conclusion that the stamp was applied there with the intention of making the required mark.

All objections to the ballot papers upon the ground that the official marks were defectively impressed upon

the backs of them fail, and it is quite sufficient if there is such evidence of the official mark:—

Whether it is perforated through the paper, or the ink is caused to run through the paper so as to indicate the official mark, or where the stamp is applied and fails to make a perfect mark.

Since the foregoing decision at Cirencester no decisions in any way affecting it have been given, so that it still forms the precedent, and consequently in all such cases, if there be evidence that the presiding officer has intended to make, and has in fact made, what, fairly looked at, indicates that the recognisable official mark is upon the back of the voting paper, votes marked on such papers ought to be held to be good votes in the absence of any other substantial objection.

CHAPTER XV.

PREPARING FOR AN ELECTION PETITION.

[By ELLIS T. POWELL, Hon. Election Agent for Mr. H. H. Marks, M.P., in the St. George's-in-the-East Election, 1895, and throughout the resulting Petition and Cross-Petition.]

AN Election Agent who sets about preparing for an election petition must obviously have in view one of two contingencies. He may have reason to believe that after the election his candidate, if successful, will be placed in the position of a respondent; or, on the other hand, he may consider it his duty to prepare for challenging the success of his opponent. It is only rarely—though it was my experience acting in St. George's-in-the-East Election in 1895—that an election agent finds himself compelled at the same time to defend his own position and to challenge that of his opponent.

A few hints with regard to the conduct of an election agent who has to contemplate either of the contingencies I have mentioned will perhaps be useful, and we will take first the case of the agent who is likely to assume the offensive and to petition against his opponent's return.

With a view to making charges in connection with the election expenses, the agent should endeavour to discover some announcement of his opponent's candidature sufficiently definite, if not too remote from the election, to be adopted as a starting point from which the expenses are to run. If such candidature—whether in the form of an announcement by the candidate himself, or of the passing of a resolution in his favour at some meeting at which he is present or which has the official support of his party—began within three months of the election, I venture to think, speaking generally, that money laid out after that date on propaganda would have to come into the return. If a candidate has made no absolute declaration of his candidature, he may often be trapped into one by the circulation of a report that he does not intend to stand, or intends standing somewhere else.

As regards agency, evidence should be accumulated with regard to the presence at the candidate's meetings, or with him at local social or other functions, or at his house in consultation with him, of all persons who might conceivably be his agents. Their constant personal association with him is the best proof of agency. It is, however, useless to give general evidence that a man "is constantly seen in the company" of the candidate. The occasions and the places should be noted down, and the agent should be prepared to bring forward reliable witnesses who will swear that they saw A.B. go with the candidate into the local political club, that they have seen them lunching together, that committee meetings have been held at A.B.'s residence, that they have seen him canvassing with

the candidate, and so on. This evidence, if A.B. can be proved guilty of some illegality during the election, will be very useful as part of the petitioner's case.

With regard to the election literature, as many copies as possible should be procured, at any cost (since the money would be no part of the election expenses), of any bills, leaflets, or pamphlets which might be made the basis of a charge. Practically anything printed or lithographed for use in the election which does not bear the name of the printer and publisher might be useful in this way. Any document issued by the candidate or his agent which contains a false statement of fact with reference to the personal character or conduct of his opponent should be most carefully preserved. A copy of every bill, poster, leaflet, pamphlet, card, portrait, or document—even the note-heads—should be preserved in order that the election return may be checked, and if any be omitted, a charge based upon the omission. Anything in the shape of a badge or mark of distinction, especially banners or flags, should be noted, and specimens secured at any price. Where they cannot be purchased or acquired in some other way, as in the case of banners hanging from the upper windows of a house, they should be photographed. A photograph will form valuable evidence in support of the charge of making illegal payments.

Cases of treating or bribery are extremely difficult to prove, but, if any are suspected, each case should be investigated at once, and the witnesses should make written statements, and should attest them before a commissioner. If the bribery has taken place in the form of a cheque,

efforts should be made to ascertain on what bank it was drawn, and by whom, so that the bank or the drawer may be served subsequently with a subpoena to produce it. In the case of a bank note it should be ascertained, if possible, where it was changed, and what became of it. Obviously, to give only one instance, if a ten-pound note were changed by some comparatively poor man in a local public-house, and that particular note could be shown to have come out of the respondent's banking account, there would be something for him to explain.

With regard to acting on the defensive for a possible respondent, the agent will be able to gather several hints from what I have already said. There are, however, a few further points upon which it is desirable to briefly touch. As regards the election expenses, I recommend the agent, at the commencement of the election, to obtain from his candidate a crossed cheque to his own order for the maximum amount which he may spend. With this cheque he should open a special election account, and should pay for everything, down to the most trifling items, by crossed cheques drawn on the account. He will then be able to come into the Petition Court and place his cheque book and pass book in the hands of the Judges as the best evidence of his *bona fides*. This was the system I adopted in the St. George's-in-the-East Election in 1895, and by it defeated every charge coming under the head of expenses "omitted from the return." The agent should be particularly careful not to employ for payment any person who is a voter, and he should serve upon every one of the persons whom he employs a notice that if he is a voter he may not vote.

The election agent and his candidate, and all prominent persons connected with the party, should studiously keep away from the offices of any independent organisation which, for its own purposes, may open committee rooms in the district. Where a powerful organisation of some kind or another comes, and does its best to secure a man's return, it is often difficult for the candidate to keep his agents away from the persons acting on behalf of such organisation. But the election agent must impress upon all his colleagues, and, to avoid offence and misunderstanding, must also courteously inform the officials of the organisation referred to, that he must not constitute them his agents, or he would be responsible and may suffer for their acts, and their expenses would have to go into his return.

I should perhaps have added, in dealing with this matter from the point of view of a petitioning agent, that he should keep a close eye upon the committee rooms of these independent organisations. A snap-shot of the respondent, or the respondent's election agent, or the chairman of the respondent's political association entering or leaving such committee rooms would be of incalculable value as proof that the respondent had constituted them his agents, was responsible for their acts, and ought to have included their expenses in his return. The election agent of a possible respondent should keep out of local public-houses and restaurants altogether during the campaign. He ought to be in a position to swear that from first to last he never entered such a place, and in that way to meet any charge of "treating."

He should avoid drawing cheques for gold or notes upon his private banking account during the election. A man does not usually draw £50 in gold from his bank account, and the fact that an election agent had done so, and could give no very clear account of what had become of the money, would, in the opinion of an Election Petition Court, raise a serious question as to his *bona fides*. I have scarcely thought it necessary to mention that the agent should give counterfoiled written orders for everything, even half a dozen lead pencils, which he buys during the election; and I imagine that no agent would commence a campaign without posting bills announcing the fact that he had been appointed election agent for So-and-so (the candidate), and that neither he nor the said candidate would be responsible for any expense incurred by persons acting or claiming to act under his authority unless he has given an order over his own signature.

A printer's proof of every document issued in connection with the election should be seen by the agent personally, in order to ascertain that the imprint is correct, and that the document contains no false statements with reference to the personal character of the opposing candidate upon which any charge could be based. Any bill issued apparently by the election agent or by the candidate which is in fact not so issued, and which may be dangerous, should be at once publicly repudiated (such repudiation would, I think, be no part of the election expenses); and a copy, in a registered letter, should also be sent to the opposition candidate, calling his attention to such repudiation.

From these hints an agent may obtain some guidance with regard to the general principles of petition work. Finally, I would urge upon him that mere general statements with respect to alleged offences are worse than useless. It may be "common knowledge" that the election agent on the other side was seen treating people in public-houses, but two good witnesses who will swear they saw him doing it are worth a thousand who can only say that "they heard it everywhere," and that "everybody knew it."

[I thoroughly agree with the view taken by Mr. Powell in the methods to be employed in watching the expenditure and the accounts of an opponent; but, in view of the definite decisions recorded in the earlier portion of this work with regard to the date of the commencement of the candidature, I should in all cases suggest following exactly the judicial *obiter dicta* of Baron Pollock at Lancaster, and Justices Wright and Bruce at Haggerston, rather than the arbitrary selection of a date—*e.g.* three months before the election.—H. C. R.]

CHAPTER XVI.

MUNICIPAL CONTESTS.

THE Municipal Elections (Corrupt and Illegal Practices) Act, 1884, practically re-enacts the provisions as to corrupt and illegal practices, illegal payments, and hiring, contained in The Corrupt and Illegal Practices Prevention Act, 1883, and makes them applicable to elections in Municipal Boroughs, and to contests in the City of London in Common Hall, Aldermanic, Shrievalty, and Common Council contests, and elections for County Councillors and for School Boards.

The difference between the Parliamentary Act of 1883 and the Municipal Act of 1884 lies in the fact that by the latter Statute the expenses of the election are limited; the use of political clubs and places of refreshment (whether for drink or food) as committee rooms or places for the holding of public meetings is strictly prohibited; the declaration as to expenses must be sent in and signed by the candidate himself; and there is no provision in the Statute for the payment of the agent of the candidate, except as polling agent. He must therefore be paid in that capacity or act as a volunteer.

Corrupt and illegal practices are the same as those enacted in the Statute of 1883, which controls Parliamentary elections: but a peculiar provision of the Act dealing with Municipal contests is that if the election is for a borough or a ward, one committee room only is allowed in each case, unless the number of the electors in the borough or ward exceeds two thousand, when one additional committee room is allowed for every two thousand electors or incomplete portion above that number.

The maximum expenditure for a Municipal election is £25, unless the number of electors exceeds five hundred, when an additional threepence for each elector is allowed over and above the first five hundred. When there are two or more joint candidates at such election the maximum amount of the expense is reduced for each of such joint candidates by one fourth, and if there are more than two joint candidates by one third.

The number of persons to be employed is limited (by Section 13) to two clerks or messengers for a borough or a ward with two thousand voters, and one additional person for every one thousand or incomplete one thousand over and above. The first two of such persons may be employed as clerks or messengers, or in both or either of such capacities. In addition, on the polling day one polling agent may be employed at each polling station.

As in Parliamentary elections, every bill, placard, or poster must bear the name of the printer and publisher, and there is the same statutory enactment against payment for bands of music, torches, flags, banners, cockades, ribbons, "or other marks of distinction." Section 16 is the

one which marks the difference between the Parliamentary and the Municipal Acts as to the disqualification, for committee rooms or for meetings, of all premises which are licensed for the sale of any intoxicating liquor, or where any refreshments, whether food or drink, are ordinarily sold for consumption on the premises. Political clubs are distinctly excluded by the following words:—"Any premises where any intoxicating liquor is supplied to members of a club, society, or association, or any part of such premises, shall not, for the purpose of promoting or procuring the election of a candidate at a Municipal election, be used either as a committee room or for holding a meeting," and persons guilty of illegal payment, employment, or hiring are liable to a fine on summary conviction of not less than £100.

At Rotherhithe a conviction of a candidate was secured because there was a connection, though locked, between the hall of the political club used for a public meeting and the part of the club where refreshments were supplied. In this case, however, the Judge gave relief.

Every claim that is made by any person in respect of election expenses must be sent in to the candidate within fourteen days after the day of election, and all such claims must be paid within twenty-one days. Where the candidate has an agent, such agent must within twenty-three days make a return to the candidate in writing of all expenses incurred by such agent on account of or in respect of the conduct or management of the election, and within twenty-eight days the candidate himself must transmit to the Town Clerk, the Clerk to the Council, or the Clerk of the Peace,

as the case may be, a return of all expenses incurred by himself or his agents by or in respect of the conduct or management of the election. No payment can be made in excess of the maximum, or after such period, without application to the High Court or to the County Court for the district in which the election was held—the rule of the High Court being that notice must be given to the candidate on the other side and the returning officer, and two days' notice of the application, with proof of advertisements in the district in which the election was held. The return and declaration in pursuance of the Act must be kept by the Town Clerk for twelve months after the date of receipt. The form of declaration by candidates as to expenses is very similar to that which candidates for Parliament have to swear, and is set out in the Fourth Schedule to the Act; but there is no declaration for the agent, nor is there any provision for his payment except that already alluded to on page 147.

In the absence of a Parliamentary candidate from the United Kingdom at the time of an election there is a provision allowing him to file his return and make a declaration within fourteen days after his arrival; but there is no similar provision under the Municipal Elections Corrupt Practices Act. A Divisional Court has, however, decided (in the case of Mr. Henry Clark, who was both a Common Councilman and a County Councillor) that relief may be given by the Court, and the return filed and the declaration made on the candidate's return to this country.

With regard to the City of London, there are special provisions in Section 35, by which, in case of an election of

an Alderman or Common Conneillor, the expense incurred must not be in excess of the maximum (£25) fixed by this Act in Section 5; and by Sub-section 7 of the same section the expenses of an election by Liverymen in Common Hall must not, if no poll be demanded, exceed £40, and if a poll be demanded £250; this sub-section referring to the election for Sheriffs, Chamberlain, and other officers who are elected by Common Hall of the Livery of the City of London. The provisions with regard to the presentation of election petitions vary somewhat from those in disputed Parliamentary elections, the amount to be deposited as security for costs being smaller and the case being heard by a Commissioner appointed by the Election Judges, to whom, of course, any disputed point of law would be referred.

It may also be pointed out that, in addition to the Municipal Elections Corrupt Practices Act not applying to a Vestry Clerk, Section 37 sets out that the provisions which prohibit the payment of *any* sum and the incurring of *any* expense by or on behalf of a candidate at an election on account of or in respect of the management of the election, and those which relate to the times of sending in and paying claims and to the maximum amount of expenses, or the return or declaration of them, do not apply to the election of members of Local Boards, Improvement Commissioners, Guardians elected under The Poor Law Amendment Act, 1834, and members of School Boards.

CHAPTER XVII.

COUNTY COUNCIL ELECTIONS.

THE letter of the Primate of all England, in answer to the Free Church Council's educational demands from the new County Councils, and Mr. McKinnon Wood's reply as to the London County Council proposals, along with the manifesto of the Bishops of London and Rochester, call attention to the certainty that the next County Council Election in March—Saturday, 5th March, being the day fixed for the polling in London—will be fought all over the country with an amount of vigour which will not have been equalled since their creation by Statute in 1889.

The Statute which regulates what may and what may not be provided at these contests is the one passed by the then Attorney General, Sir Henry James (now Lord James of Hereford), and is to be found in the bound volumes of the Statutes for 1884.

In the light of recent contests it will also be necessary for candidates and agents to be on the alert against the circulation of false statements, as it will constitute an illegal practice, and will therefore disqualify and annul the return of a successful candidate. If libellous or slanderous statements are printed and published to the order of the agents or are paid for by him, the candidate will certainly be disqualified from retaining the seat if elected.

There are certain great differences between the conduct of a County Council and a Parliamentary campaign, though the area may be the same. Of course, for a County Council election in London there will be very often a dual campaign, and the provision as to joint expense will in such cases apply.

Section 5, Sub-section 4, of the Act of 1884 defines joint candidature as follows:—

“Where two or more candidates at the election, by themselves or any agent or agents, hire or use the same committee rooms for such election, or employ or use the services of the same clerks, messengers, or polling agent at such election, or publish a joint address or joint circular or notice at such election, those candidates shall be deemed for the purposes of this enactment to be joint candidates at such election.”

This applies equally to the question of expenses incurred by any outside person or body by or on behalf of a particular candidature.

Election Literature.

At elections for County Councils, particularly at the triennial elections for the London County Council, a large amount of Election Literature is often circulated in addition to that which is provided by the candidate or his agent. At the present time, for example, a great deal of interest is existent in all parts of the country owing to the passing of the Education Acts, and probably Free Church Councils, Parochial or Diocesan Committees, and possibly the teachers in the various schools, will issue literature, either in leaflet, handbill, or other form, recommending certain candidates for the support of themselves and their friends.

The provision and circulation of this literature by outside organisations is a most important question, and places upon the candidate and his agent a great responsibility, for it is according to the answers to the two questions, "Who provided this literature?" and "How is it to be paid for?" that the candidate must schedule the cost in his Return of Election Expenses or not. In order to answer the questions, two or three of the decisions of the Judges in the Election Petition cases should be most carefully studied.

It is needless to state first that every placard, bill, poster, or pamphlet in relation to the contest must bear the name and address of the printer and publisher, whether issued by the candidate or not.

A photograph bearing the name of the company or photographer producing the same, and an address, with the name and address of the person sending it out, though without the printer's name, were held to comply with the Act; but it is always safer to insist on the name of the printer being on every bill, placard, poster, or address.

How and to what extent this outside literature may be used is a question which can only be settled in the light of two different decisions: viz.—that in the City of Norwich (O'Mally and Harcastle's Reports, Vol. 4, pp. 84 and 85) in 1885, and that in the Borough of Stepney Election Petition in 1892.

At Norwich payment for placards (£19 18s.) by volunteers was held to be illegal, and the election was voided. This was one of the very first decisions under the Corrupt Practices Act, and Mr. Justice Cave and Mr. Justice Denman held that "it was proved that

placards were posted and distributed in the city by the authority of a person who was not an election agent and who paid for this purpose a sum of £19 18s.

It was admitted that placards were paid for at a cost of about £20, and Section 28 of The Corrupt Practices Act, 1883, provides that, except as permitted by the Act, no payment shall be made by any person in respect of the conduct or management of the election otherwise than by the election agent.

The test that the Judges put before the Court was as follows:—

Can it be doubted that this expense was incurred on account of this election—that is, one for the election of the candidates of the particular party in whose interest the placards were printed and posted? For what other reasons were these placards issued? It was clear to the judicial-minded that the return of the particular candidates was the only, or at all events the chief or predominant, reason. All of them were intended to operate in the favour of the Respondent—that is, the successful candidate against whose return the petition was set on foot; and one of the placards directly invited the voters to vote for him.

So that in looking at Election Literature it evidently must be included in the candidate's Return of Election Expenses if his name and a request to vote for him appears on the papers thus sent out by friends interested in his election. Then if this expense is within the section it is also within the proviso, and must be returned in the Election Expenses.

By the provisos the section is not to be deemed to apply to any sum disbursed by any person out of his own money for any small expenses legally incurred by himself. Upon this Mr. Justice Cave gave his reasons,

which are set out, and agents and candidates, of course, are bound to act within the spirit of this decision.

To my mind the proviso is meant to apply to such small payments as the hiring of a cab by a (voluntary) canvasser in order to go round canvassing (where no use is made of it for the purpose of taking any voter to the poll), or for telegrams or postage where the payee is not and does not intend to be repaid. It is not intended to apply to so large a sum as £20, although it might, perhaps, cover the purchase and distribution of Two Shillings and Sixpence worth of cartoons or *any small expenses* of that kind *which is not forbidden by the Act*, which a person who is not an agent may legally incur.

The Judges held that the amount of nearly £20 was not trivial, and the objection to its non-inclusion formed an illegal practice, for which the candidate, as well as his agent, was responsible, and the seat was voided.

The only safe plan will be for every bundle of literature which is sent in from outside, whether from the National Liberal Federation, the Conservative Central Office, the Free Church Council, the London Municipal Society, or a local Ratepayers' Association, to be carefully and accurately scheduled, and its genuine and actual cost scheduled in the Return of Election Expenses when sent in by the candidate. Perhaps an exception may be made in the case of the licensed victuallers, and possibly of the teachers, the latter of whose interests no doubt are at stake in the forthcoming contest, but any literature which contains the name of any particular candidate or candidates to be voted for may come within the Norwich Election Petition. Particular care must, however, be taken that the names of candidates in whose support circulars are issued are not inserted in the circulars, unless it is intended to schedule the cost in the Return of Election Expenses.

In the Cockermonth Division, where the publicans were naturally very active against the return of Sir Wilfrid Lawson, the test of Mr. Justice Channell was thus defined :—

The difference between an act done “for the conduct and management of the election” and a thing merely done for the promotion of the success of a particular candidate seems to me to be this: If another person pays an expense, and that expense is one of the ordinary expenses of the candidate, so that the doing of that by the third person relieves the candidate from part of his election expenses, then the candidate must treat that assistance given to him in respect of his election expenses, and must treat the expenses (so incurred) as part of his election expenses (and within the maxima). . . . They, the Liberal Unionists, supply people with tea, and so on, at less than it costs. They were evidently doing what would have been a very dangerous thing if they had been acting on behalf of any candidate. . . . He is not bound to include entertainments and expenses of other people which have nothing to do with the election expenses. . . . But no candidate can prevent any people who think they would like him to be elected because they think him more in accordance with their own special views either upon vaccination or upon temperance, or any of the other things which people have strong opinions about, incurring expenses, printing literature, and doing various things in support of the particular candidature, and none of those things come into the candidate's expenses.

But the ordinary political worker will hardly realise the difference, and even the trained, but not legal, agent will see elements of danger in all such teas and outside uncontrolled activity, especially if the candidate be present or votes be asked for on his behalf. It is most important that neither the candidate nor any one who can be legally defined as his agent—viz., an active supporter, whose help he makes use of and adopts—should provide meat, drink, or refreshments of any kind at a political meeting where the candidate is present or to which electors or political workers are invited; a breakfast to the latter, although

they were all volunteers, cost Sir Fras. Sharp Powell his seat at Wigan, and supplying the loss on P. L. tickets for refreshments lost Sir Horatio Davies his seat at Rochester.

The presiding Judge at the Stepney Election Petition in 1892 said that he saw no ground at all for saying that the expenses of the local Licensed Victuallers' Association should be deemed to be election expenses; and his remarks were generally approved by two other Judges in the Cockermonth case.

The expenses of the Association appear to have been incurred for their own purposes—*i.e.* for their own interests as licensed victuallers; and if at the election of 1904 the teachers, or even the Free Church Council or the National Society, of Broad Sanctuary, Westminster, or the Church Defence Committee, can keep within the tests laid down in both or either of the foregoing cases, they may issue what literature they please, and take part in the work of an election, without having to make a return of the cost of such literature or reckon such work as within the maximum; but they must be careful not to recommend any particular candidate by name, as, if they do, they come within the Norwich decision.

In the Stepney Election Petition case the Judges added—

No doubt they (the Licensed Victuallers) were desirous to assist Mr. Isaacson, whom they preferred as a candidate to Mr. Thompson, but it does not follow that because they were desirous of doing that every expense that they chose to run into would become an election expense. They may have made themselves election agents for Mr. Isaacson, or that any corrupt practice traced to them might unseat him, . . . but it does not follow that because that is so every expense that they resort to thereby becomes an election expense which must be paid by Mr. Isaacson [or scheduled by his agent as an election expense]. . . . If that were so the fate

of a candidate would be very deplorable. He would have no control over persons who chose to say they were acting in his interest and for his benefit, and would be compelled to pay every expense that they might think fit to incur. . . . I do not think that the Licensed Victuallers' case was one in which it can be said the expenses were expenses of conducting the election, and not expenses incurred by the Association for their own ends and for their own purposes, . . . quite distinct from Mr. Isaacson's election expenses, although undoubtedly his election was one of the things which they were anxious to secure.

The candidate and his agent must be careful not to accept in any way the direct agency of these outside workers; and if their expenses are not to be his expenses, and their acts not to be adopted as his acts, the organisations must be distinct and *bonâ fide*.

Of course, if persons bribed on behalf of a particular candidate no doubt that candidate would be unseated, and probably there are other illegal practices known to the law which, if they were guilty, might void the candidate's return.

I have carefully put before those engaged in these contests the two controlling decisions, and I still adhere to my opinion that, for safety's sake, all literature should be paid for and returned for and by the candidate and his agent, and that whatever social, parochial, diocesan, religious, or sectarian interference and assistance there may be, it should not be of that character which would be construed as amounting to an adoption of such work by the candidate or his agent and the necessity of accepting a legal agency and responsibility. Inviting him to meet the voters at a Smoking Concert or Tea gathering, and providing meat, drink, or refreshment by the Association or other individuals will be found to be a corrupt practice.

Mural Decorations and Banners.

The question of Mural Decorations and Banners will require some care on the part of agents, for the Judges have gone with great nicety into the question of what is a banner and how payment for banners is an illegal practice. In the Stepney Election broad strips of canvas, with the words "Vote for Isaacsen," were stretched across different streets throughout the constituency, and as these were paid for by the candidate both the Judges held it to be an illegal practice. Mr. Justice Cave said:—

I am clearly of opinion that these canvas advertisements, as they have been called, are banners, and nothing else. . . . I do not think that it was the intention of the Act to preclude this kind of marks of distinction which might lead to a fight, because if it had been so it seems to me that all colours, all badges, all banners, must have been made illegal, because, whether they are paid for by the candidate or by an agent. . . . or by some other person with more money than wit who is not an agent. . . . or whether they are given away by some person who does not buy and pay for them but gives them away out of his own stores, it cannot make the slightest difference with regard to their provocative effect. . . . What was intended to be struck at was the waste of money at elections which served no useful purpose at all. . . . A maximum was fixed.

This will require care on the part of both agent and candidate to see that no such canvas banner or streamer is stretched across the street and find its way under any heading into the election accounts, which must be clear and definite and filed with the Town Clerk, with the names and addresses of every person employed, and a definite statement or account of every payment over forty shillings.

Clerical Influence.

Considering the active interest taken in County Council Elections by clergymen and ministers of all denominations, Lord Justice Fitzgerald's remarks in the Longford Petition may be given as well defining the limits of clerical direction and influence:—

In considering what I call here "undue clerical influence," it is not my intention in any way to detract from the proper influence which a clergyman has or by a single word to lessen its legitimate exercise. . . . He must not hold out hopes of reward here or hereafter, and he must not use threats of temporal injury or of punishment hereafter. He must not threaten to excommunicate or to withhold the sacraments, or to expose the party to any other religious disability, or denounce the voting for any particular candidate as a sin or as an offence involving punishment here or hereafter. If he does so with a view to influence the voter, or to affect an election, the Law considers him guilty of undue influence.

On the other hand, to state that one candidate was "a man of God" and that the other was a person of indifferent character might render the preacher liable to an action for slander, but would not bring him within the meshes of the Law for clerical or spiritual intimidation. Lord Justice Vaughan Williams gave an *obiter dictum* in Chambers restraining a Temperance enthusiast: that although he might state that the publican and his customers would go to hell, such a statement was not illegal, but to say that the publican would lose his licence in consequence was restrainable at law; and an injunction was granted accordingly. This, however, is not a reported case, and could hardly be cited to another Judge, but it is no doubt sound law

Committee Rooms.

The following allowance is made for Committee Rooms for elections to a County Council:—

One committee room for each electoral division.

If the number of electors in such division exceeds two thousand, one additional committee room for every two thousand electors or part thereof.

The use of committee rooms lent voluntarily is not restricted, provided they are not in prohibited premises.

It should in this connection be most carefully remembered that no committee, public, or other meeting in support of any County Council candidate can legally be held upon any licensed premises or on any premises used as a political club, or any premises where refreshments of any sort (alcoholic or non-alcoholic) are ordinarily sold for consumption on the premises. It is also equally well established that no meeting can be held in a hall which is in any way connected with a club where refreshments can ordinarily be obtained, or where the connection is or may be locked or detached. If there can be found any method of ordinary communication between the hall and such premises the disqualification applies, and the fine of £100 and disqualification on account of the illegal practice follow.

The section of the Statute does not, however, apply to any part of premises where drink or food is sold which is ordinarily let for the purpose of chambers or offices, or for the holding of public meetings or arbitrations, if such part

has a separate entrance and there is no direct communication with any part of the premises in which the food or drink is sold.

The use of public elementary schools as committee rooms is not prohibited, as at Parliamentary Elections; but it is not advisable that they should be used for the purpose.

County Council Election Expenses.

The cost of the campaign is strictly limited and must not exceed £25, unless the number of electors exceeds five hundred. As in every Metropolitan area the voters are numbered by many thousands, the candidate must calculate first of all the initial basis at £25 for the first five hundred electors and then add threepence per head for each elector after the first five hundred. Where there are two or more joint candidates at an election the maximum of expenses shall, for each of such joint candidates, be reduced by one fourth; or if there are more than two joint candidates (as in some Provincial Councils), by one third.

In the Metropolis, where there will probably be in each Parliamentary Division two joint candidates running together, the two £25 for each County Council candidate will be reduced from £50 to £37 10s., and the joint expense per head permitted for each voter after the first five hundred will be fourpence halfpenny instead of sixpence.

Section 21 of the Act of 1889 makes it clear how claims are to be made and how and when they may be paid. Every claim against any person in respect of any expenses incurred by or on behalf of a candidate at an election of a Councillor must be sent in within fourteen

days after the day of election, and if not so sent in shall be barred and not paid, and all expenses incurred shall be paid within twenty-one days after the election and not otherwise.

Every agent of a candidate at an election of a Councillor shall within twenty-three days after the election make a return to the candidate in writing of all expenses incurred by such agent in respect of the conduct or management of such election, and the candidate must send in such return signed by himself, or it must be sent in on his behalf, to the County Council Clerk within twenty-eight days.

Clerks and Messengers.

The question of Clerks and Messengers to be employed must also be studied, for though an agent may be appointed there is no provision for his separate payment, as in a Parliamentary campaign. He must therefore be returned not as an agent in addition to the clerks and messengers, but he must be included in the number allowed by the Act, and his remuneration must necessarily be fixed within the maximum set forth: viz. £25 or £37 10s. for the first five hundred and the threepence or fourpence halfpenny per head allowed for each elector after the first five hundred. The Election Return Declaration &c. must, in such a case, be made by the candidate or candidates and not by the agent (*vide* preceding paragraph).

As to the number of paid clerks and messengers the provisions of the law are very clear.

Two clerks or messengers—*i.e.*, two, not four, paid *employés* for any borough or ward of two thousand electors, and one person in addition, whether clerk or messenger, for every one thousand or incomplete thousand electors after the first two thousand, so that if there are three thousand and one electors there may be four persons employed, and if there are three thousand nine hundred and ninety-nine voters the four persons may not be exceeded. On the polling day one polling agent may be employed in each ward in addition.

Illegal Expenditure.

The following Illegal Expenditure must not be provided by the candidate or his agent, or by any other person :—

On account of conveyance of the electors to and from the polling place, whether by hiring of horses or carriages, or for railway fares, or otherwise.

No payment must be made to an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice.

An exception is, however, made as to professional bill posters ; for where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector, if made in the ordinary course of business, is not deemed to be an illegal expenditure. But of course such a payment must be within the maximum allowed.

Illegal Practices.

A person must not let, lend, or employ, for the purpose of conveying voters to or from the poll at a County Council Election, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage horse or other animal which he keeps or uses for the purpose of letting out for hire; and if he lets, lends, or employs such carriage, horse, or other animal, knowing that it is intended to be used for the purpose of the conveyance of electors to or from the poll, he will be guilty of Illegal Hiring.

Persons legally employed for payment and voting are guilty of an Illegal Practice.

It is also an Illegal Practice to issue any bill, placard, or poster without the name and address of the printer and publisher.

Any person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate is guilty of an Illegal Practice.

No payment may be made for bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction. In the Walsall case a hat card was considered by the Judges to be a "mark of distinction" within the Act.

It is an Illegal Practice knowingly to provide money for any payment which is contrary to the provisions of The Municipal Elections (Corrupt and Illegal Practices)

Act, 1884, or for any expenses incurred in excess of any maximum allowed by the Statute, or for replacing any money expended in such payment.

Return of Election Expenses.

Within twenty-eight days after the day of election of a Councillor every candidate at such election shall send to the Clerk to the County Council a return of all expenses incurred by such candidate or his agent on account of or in respect of the conduct or management of such election. Except in the case of sums under twenty shillings, the return must be accompanied by bills stating the particulars of receipts and by a declaration of the candidate made before a Justice in the form set forth in the Fourth Schedule of The Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (see p. 193).

After the expiration of twenty-eight days the Member must neither sit nor vote until his Return Declaration as to Election Expenses has been sent in.

The County Court for the district in which the election has been held, or the High Court, or an Election Court, may, on application either of the candidate or a creditor, allow any claim to be sent in and any expenses to be paid after the time limited by this section, and a return of any sum so paid shall forthwith, after payment, be sent to the Clerk to the County Council.

Before any application for relief can be made to the County Court or to the King's Bench Division of the High Court, two days' notice of motion must be served

upon the other candidate or candidates upon the Clerk to the County Council, and an affidavit must be forthcoming that public notice by advertisement, placards, &c., of the intended application has been made in the Electoral Division.

Register of Voters.

The candidate or agent is particularly reminded that the Register is not that of the Parliamentary campaigns, but is that known as "the List of County Electors," containing women ratepayers, owners, and parochial electors.

The following notes are based on the personal experiences, and are from the pen, of my agent Mr. J. LEDGER KEATING, who has gone through many a Borough and County Election in different parts of England:—

Qualification.—In the case of a County Council Election it is important to ascertain that the proposed candidate is legally qualified to be elected. The qualification is defined by Section 11 of The Municipal Corporations Act, 1882, the practical effect of which is that any person who is properly enrolled as a county elector, and in respect of whose registration there is no defect, may be elected a Councillor for that county. A person who is enrolled in one division is also entitled to be elected for any other division of the same administrative county.

An elector who is only on the Parliamentary Register in respect of occupation (*e.g.* lodgings or service) is not qualified to be elected a County Councillor.

Expenditure.—The sum which a candidate may expend in the conduct and management of an election is regulated under The Municipal Elections (Corrupt and Illegal Practices) Act, 1884, by a scale which allows a maximum of £25 for the first five hundred electors, and threepence for each elector above that number.

The authorised expenditure will not admit of any great outlay on committee rooms, wages of clerks and messengers, printing, advertising, or bill posting, and it will be found absolutely necessary to confine these items within the most moderate limits.

Committee Rooms.—One Committee Room is allowed to be hired for each Electoral Division, or if the number of electors exceeds two thousand, one additional committee room for every additional two thousand or part of that number. The use of committee rooms lent voluntarily is not restricted, provided they are not on prohibited premises.

Employment.—The number of persons who may be employed for payment as clerks or messengers or in other capacity is two persons for not more than two thousand electors, and one additional person is allowed for every further one thousand electors, or part of that number. There is no provision authorising the payment of an election agent as such. Anyone acting in that capacity must do so without remuneration, but the necessary work which at a Parliamentary Election falls to the agent may be performed by a superior clerk, who must be included

among the number of clerks authorised by the Act. The usual remuneration is, for ordinary clerks, £2 2s. per week, and messengers 30s. per week. Polling agents, one of whom is allowed for each polling station, may be paid, the rate varying from 10s. 6d. to £1 1s. for the day, but it is usually found that the expenditure allowed will not admit of the employment of paid polling agents at Municipal or County Council Elections.

Nomination.—Every candidate must be nominated in writing by two registered county electors of the Electoral Division for which he stands. Eight others must assent to the nomination. An elector who is only on the Parliamentary Register is not qualified to sign.

Return of Expenses.—Claims in respect of the election expenses of a candidate must be sent in within fourteen days after the election. All such expenses must be paid within twenty-one days, and every candidate must, within twenty-eight days after the election, send to the Clerk to the County Council a return of all expenses incurred by him, together with the bills stating the particulars.

APPENDIX A.

ENACTMENTS DEFINING THE OFFENCES OF BRIBERY AND PERSONATION.

“Bribery” Defined.

THE CORRUPT PRACTICES ACT, 1854

(16 & 17 VICT. C. 102, SECTIONS 2 AND 3.)

2. The following persons shall be deemed guilty of bribery, and shall be punishable accordingly:—

- (1) Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise, or promise to procure or to endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election :

- (2) Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure or to endeavour to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of any voter having voted or refrained from voting at any election :
- (3) Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election :
- (4) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure or engage, promise, or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election :
- (5) Every person who shall advance or pay, or cause to be paid, any money to or to the use of any other person with the intent that such money or

any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

Provided always that the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bonâ fide* incurred at or concerning any election.

3. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly:—

- (1) Every voter who shall, before or during any election directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election;
- (2) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.

It should be noted that the person who receives, as well as the person who pays or offers, is subject to the pains and penalties of the Statutes against bribery.

***Corrupt Payment of Rates to be Punishable as
Bribery.***

THE REPRESENTATION OF THE PEOPLE ACT, 1867.
(30 & 31 VICT. c. 102, SECTION 49.)

49. Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting shall be guilty of bribery, and be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section mentioned is made shall also be guilty of bribery, and punishable accordingly.

This section is re-enacted, as regards Scotland, by The Representation of the People (Scotland) Act, 1868 (31 & 32 Vict. c. 48), Section 49.

***Corrupt Payment of Registration Fee to be Punishable
as Bribery.***

THE UNIVERSITIES ELECTIONS AMENDMENT
(SCOTLAND) ACT, 1881.

(44 & 45 VICT. c. 40, SECTION 2.)

2. Any person, either directly or indirectly, corruptly paying any fee for the purpose of enabling any person to be registered as a member of the general council, and

thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly, paying such fee on behalf of any person for the purpose of inducing him to vote, or to refrain from voting, shall be guilty of bribery, and shall be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section mentioned is made shall also be guilty of bribery, and punishable accordingly.

Personation Defined.

THE BALLOT ACT, 1872.

(35 & 36 VICT. C. 33, SECTION 24.)

24. A person shall, for all purposes of the laws relating to Parliamentary and Municipal Elections, be deemed to be guilty of the offence of personation who, at an election for a county or borough, or at a Municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name.

This definition should be extensively known, and a prosecution instituted when the offence is committed. The punishment is imprisonment WITH hard labour for a period not exceeding two years, and it cannot be mitigated.

APPENDIX B.

FORMS TO BE USED IN A PARLIAMENTARY ELECTION.

THE following forms are necessary to be used before or after a Parliamentary Election in order to comply with the requirements of The Ballot Act, 1872. and The Corrupt and Illegal Practices Prevention Act, 1883:—

1. APPOINTMENT OF ELECTION AGENT.

Notice to be given to Returning Officer.¹

PARLIAMENTARY ELECTION, 190 .

I, _____, of _____,
being one of the Candidates at the Parliamentary Election
for the County [or Borough] of _____,
do hereby nominate Mr. _____, of _____,
to be the Election Agent for me and on my behalf in
pursuance of The Corrupt and Illegal Practices Prevention
Act, 1883, Section 24.

¹ This Notice should be given to the Returning Officer as soon as the writ is issued and the campaign commenced.

The office or address of my committee room, to which all claims, writs, summonses, documents, and Parliamentary notices are to be sent in pursuance of such Statute, is as follows :

Dated the day of , 190 .

Signed _____

To the Returning Officer for the County [or Borough]
of _____

2. HIRE OF COMMITTEE ROOM.

PARLIAMENTARY ELECTION, 190

I, _____, of _____, being Election Agent [*or* Sub-Agent] for _____, the Candidate at this Election, do agree to rent of Mr. _____, of _____, for the price of _____ per day [*or* week], a Room [*or* _____ Rooms] at _____, to be used until the close of the Poll¹ as a Committee Room for the said Candidate at the above Election.

The above sum is to include all costs and charges.

Dated the day of , 190 .

Signed _____

Election Agent.

I am ready to let on the above Agreement.

Signed _____

¹ The Central Committee Room should be hired for three days after the Poll in addition.

3. AUTHORITY FOR PETTY DISBURSEMENTS.

PARLIAMENTARY ELECTION, 190 .

I, the undersigned, being the duly appointed Election Agent for _____, hereby give you leave to incur and pay any necessary charges for stationery, postage, telegrams, and other petty expenses in respect of the Parliamentary Election for the County [*or* Borough] of _____, the entire sum not to exceed _____ pounds shillings.

All items of such payments must be returned to me within Ten Days after the Election, and are required to be vouched for by receipts.

Dated the _____ day of _____, 190 .

Signed _____

To Mr. _____

4. NOTICE OF APPOINTMENT OF COUNTY SUB-AGENTS.¹

PARLIAMENTARY ELECTION, 190 .

I, the undersigned, being the duly appointed Election Agent for _____, a Candidate at the above Election, do hereby inform you that the under-mentioned

¹ This Notice must be delivered to the Returning Officer at least one clear day before the Polling.

persons have been appointed by me to be the Sub-Agents for the said Election, to act within the Polling Districts set opposite their respective names, in pursuance of the Statute therein made and provided.

Polling Districts.	Names and Addresses of Sub-Agents.	Office or Place to which Claims or Notices may be sent.

Dated the day of , 190

Signed

To the Returning Officer for the County [or Borough] of _____

5. APPOINTMENT OF POLLING AGENT, CLERK, OR MESSENGER.

PARLIAMENTARY ELECTION, 190 .

To Mr. _____, of _____.

I hereby give you authority to act as¹
at the above Election, the fee for which service will
be _____ per day.

Your appointment will cease at the close of the poll,
but it may be determined by _____ at any time.

No refreshments during the Election, nor allowance for
the same, can be provided or paid for by me or at the
Candidate's expense.

Dated the _____ day of _____, 190 .

Signed _____
Election Agent [or duly appointed Sub-Agent] for

A Candidate at the above Election.

¹ Here add "Polling Agent, Clerk, or Messenger," as the case may be. Where a Polling Agent is appointed, add "On the Polling Day."

One Clerk and one Messenger are by law allowed for every complete five hundred electors in a Borough or County Polling District. If there be a number of electors over and above any complete five hundred or five hundreds, then one clerk and one messenger may be employed for each such number, although not amounting to a complete five hundred.

One Polling Agent only is allowed for each Polling Station.

No Elector who is paid by any Candidate for his services can vote.

6. NOMINATION PAPER IN A PARLIAMENTARY ELECTION.

(As prescribed by The Ballot Act, 1872.¹)

We the undersigned [*name in full*] _____
 of [*address in full*] _____
 in the [*County, Division, or Borough*] of _____
 and [*name in full*] _____
 of [*address in full*] _____
 in the [*County, Division, or Borough*] of _____
 being Electors for the [*County, Division, or Borough*]
 of _____, do hereby nominate the
 following person as a proper person to serve as Member for
 the said [*County, Division, or Borough*] in Parliament :—

Surname.	Other Names.	Abode.	Rank, Profession, or Occupation.

(Signature of Proposer) _____

(Signature of Seconder) _____

¹ Copies of this Form must be obtained from the Returning Officer.

We the undersigned, being Registered Electors of the
 [County, Division, or Borough] of _____,
 do hereby assent to the Nomination of the above-mentioned
 [insert the name of the Candidate in full] as a proper person
 to serve as a Member for the said [County, Division, or
 Borough] in Parliament.

(Signed)

- | | | |
|----|-------|------------|
| 1. | _____ | , of _____ |
| 2. | _____ | , of _____ |
| 3. | _____ | , of _____ |
| 4. | _____ | , of _____ |
| 5. | _____ | , of _____ |
| 6. | _____ | , of _____ |
| 7. | _____ | , of _____ |
| 8. | _____ | , of _____ |

7. NOTICE AS TO DECLARATION OF SECRECY.

(To be sent to Polling and Counting Agents.)

PARLIAMENTARY ELECTION, 190 .

DEAR SIR,

It is necessary that you should attend at
 on _____, the _____ day of _____ next,
 at _____ o'clock in the _____ noon, in order to
 make the Statutory Declaration of Secrecy which is
 requisite for all who appear on behalf of a Candidate at
 a Polling Station and at the Counting of the Votes.

Yours faithfully,

Election Agent for _____

To Mr. _____

8. STATUTORY DECLARATION OF SECRECY.

I solemnly promise and declare that I will not at this Election for _____ do anything forbidden by Section 4 of The Ballot Act, 1872, which has been read to me.

Signed _____

Made and Subscribed	{	<i>Signed</i> _____
before me this _____ day		Justice of the Peace for the
of _____, 190 _____		[or Returning Officer for the _____]

Note.—Section 4, above mentioned, must be read to the declarant by the person taking the declaration. The section is as follows:—

4. Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorised by law, before the poll is closed, to any person, any information as to the name or number on the register of voters of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark; and no such officer, clerk, or agent, and no person whatsoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote, or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any voter to display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

9. CANDIDATE'S DECLARATION AS TO EXPENSES.

I, _____, having been a Candidate at the Election for the County [*or Borough*] of _____, on the _____ day of _____, do hereby solemnly and sincerely declare that I have examined the Return of Election Expenses [about to be] transmitted by my Election Agent [*or, if the Candidate is his own Election Agent, by me*] to the Returning Officer at the said Election, a copy of which is now shown to me and marked _____, and to the best of my knowledge and belief that Return is correct.

And I further solemnly and sincerely declare that, except as appears from that Return, I have not, and to the best of my knowledge and belief no person, nor any club, society, or association has, on my behalf, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said Election.

And I further solemnly and sincerely declare that I have paid to my Election Agent [*if the Candidate is also his own Election Agent, leave out to my Election Agent*] the sum of _____ Pounds and no more for the purpose of the said Election, and that, except as specified in the said Return, no money, security, or equivalent for money has to my knowledge or belief been paid, advanced, given, or deposited by anyone to or in the hands of my Election

Agent [or, if the Candidate is his own Election Agent, myself] or any other person for the purpose of defraying any expenses incurred on my behalf on account of or in respect of the conduct or management of the said Election.

And I further solemnly and sincerely declare that I will not, except so far as I may be permitted by law, at any future time make or be party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expenses.

(Signature of Declarant) C.D.

Signed and declared by the above-named Declarant on the day of before me.

(Signed) E.F.,
Justice of the Peace for .

10. ELECTION AGENT'S DECLARATION AS TO EXPENSES.

I, , being Election Agent to ,
Candidate at the Election for the County [or Borough] of ,
on the day of ,
do hereby solemnly and sincerely declare that I have examined the Return of Election Expenses about to be transmitted by me to the Returning Officer at the said

Election, and now shown to me and marked _____, and to the best of my knowledge and belief that Return is correct.

And I hereby further solemnly and sincerely declare that, except as appears from that Return, I have not, and to the best of my knowledge and belief no other person, nor any club, society, or association, has on behalf of the said Candidate, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said Election.

And I further solemnly and sincerely declare that I have received from the said Candidate _____ Pounds and no more [*or nothing*] for the purpose of the said Election, and that, except as specified in the said Return sent by me, no money, security, or equivalent for money has been paid, advanced, given, or deposited by anyone to me or in my hands, or, to the best of my knowledge and belief, to or in the hands of any other person, for the purpose of defraying any expenses incurred on behalf of the said Candidate on account of or in respect of the conduct or management of the said Election.

(Signature of Declarant) A.B.

Signed and declared by the above-named Declarant on the _____ day of _____ before me.

(Signed) E.F.,

Justice of the Peace for _____.

11. RETURN OF ELECTION EXPENSES.

I, *A.B.*, being Election Agent to *C.D.*, Candidate at the Election for the County [*or Borough*] of _____ on the _____ day of _____, make the following Return respecting Election Expenses of the said Candidate at the said Election [*or, where the Candidate has named himself as Election Agent, I, C.D., Candidate at the Election for the County [or Borough] of _____ on the _____ day of _____, acting as my own Election Agent, make the following Return respecting my Election Expenses at the said Election*]:—

RECEIPTS.

Received of [the above-named Candidate] [*or, where the Candidate is his own Election Agent, Paid by me*] - - - - - £
 Received of *J.K.* - - - - - £

[*Here set out the names and descriptions of every person, club, society, or association, whether the Candidate or not, from whom any money, securities, or equivalent in money was received in respect of expenses incurred on account of or in connection with or incidental to the above Election, and the amount received from each person, club, society, or association separately.*]

EXPENDITURE.

Paid to *E.F.*, the Returning Officer for the said County [*or Borough*], for his charges at the said Election - - - - - £

Personal Expenses of the said *C.D.*, paid by
himself [*or, if the Candidate is his own Election*
Agent, Paid by me as Candidate] - - - £

Personal Expenses of the said *C.D.*, paid by me
[*or, if the Candidate is his own Election Agent,*
and acting as Election Agent] - - - - £

Received by me for my services as Election Agent
at the said Election [*or, if the Candidate is his*
own Election Agent, leave out this item] - - - £

Paid to *G.H.*, as Sub-Agent for the Polling
District of - - - - £

[*The name and description of each Sub-Agent and the*
sum paid to him must be set out separately.]

Paid to as Polling Agent - - - - £

Paid to as Clerk for days' services - £

Paid to as Messenger for days' services £

[*The names and descriptions of every Polling Agent,*
Clerk, and Messenger, and the sum paid to each, must be
set out separately either in the account or in a separate
list annexed to and referred to in the account, thus: "Paid
to Polling Agent (or as the case may be) as per annexed
list £ ."]

Paid to the following persons in respect of
goods supplied or work or labour done:

To *P.Q.* (Printing) - - - - £

To *M.N.* (Advertising) - - - - £

To *R.S.* (Stationery) - - - - £

[*The name and description of each person, and the*
nature of the goods supplied, or the work or labour done

by each, must be set out separately either in the account or in a separate list annexed to and referred to in the account.]

Paid for Postage - - - - - £

Paid for Telegrams - - - - - £

Paid for the Hire of Rooms as follows:

For holding Public Meetings - - - £

For Committee Rooms - - - - £

[A Room hired for a Public Meeting or for a Committee Room must be named or described so as to identify it; and the name and description of every person to whom any payment was made for each such room, together with the amount paid, must be set out separately either in the account or in a separate list annexed to and referred to in the account.]

Paid for Miscellaneous Matters: namely—

[The name and description of each person to whom any sum is paid, and the reason for which it was paid to him, must be set out separately either in the account or in a separate list annexed to and referred to in the account.]

In addition to the above, I am aware, as Election Agent for C.D. [*or, if the Candidate is his own Election Agent, leave out as Election Agent for C.D.*], of the following disputed and unpaid claims: namely—

Disputed Claims.

By T.C. for - - - - £

[Here set out the name and description of each person whose claim is disputed, the amount of the claim, and the goods, work, or other matter on the ground of which the claim is based.]

Unpaid Claims allowed by the High Court to be paid after the proper time or in respect of which application has been or is about to be made to the High Court.

By *M.O.* for - - - - £

[Here state the name and description of each person to whom any such claim is due, and the amount of the claim, and the goods, work, and labour or other matter on account of which the claim is due.]

(Signed) A.B.

12. DECLARATION AS TO EXPENSES.

Form for Candidate where Declared a Candidate or Nominated in his Absence and taking no Part in the Election.

I, _____, having been nominated [*or* having been declared by others] in my absence [*to be*] a Candidate at the Election for the County [*or* Borough] of _____, held on the _____ day of _____, do hereby solemnly and sincerely declare that I have taken no part whatever in the said Election.

And I further solemnly and sincerely declare that [*or* with the exception of _____] I have not, and no person, club, society, or association at my expense has, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration,

or incurred any liability on account of or in respect of the conduct or management of the said Election.

And I further solemnly and sincerely declare that [or with the exception of] I have not paid any money or given any security or equivalent for money to the person acting as my Election Agent at the said Election, or to any other person, club, society, or association, on account of or in respect of the conduct or management of the said Election, and that [or with the exception of] I am entirely ignorant of any money, security, or equivalent for money having been paid, advanced, given, or deposited by any one for the purpose of defraying any expenses incurred on account of or in respect of the conduct or management of the said Election.

And I further solemnly and sincerely declare that I will not, except so far as I may be permitted by law, at any future time make or be party to the making or giving of any payment, reward, office, employment or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be a party to the providing of any money, security, or equivalent of money for the purpose of defraying any such expenses.

(Signature of Declarant) C.D.

Signed and declared by the above-named Declarant
on the day of before me.

(Signed) E.F..

Justice of the Peace for

13. PERSONATION QUESTIONS.

With regard to the duty of the Polling Agent representing a Candidate in a poll, either where there is any doubt in his mind as to the identity of an Elector who professes to have come to record his vote, or where he has any record that the Elector is dead or has gone away, there are a few statutory questions which may be put to the applicant by the Returning Officer when the vote is challenged by the Polling Agent. They are strictly defined by law as follow:—

- (A) Are you the same person whose name appears as Y.Z. in the Register of Voters now in force for the Borough [*or* County] of _____ ?
- (B) Have you already voted, either here or elsewhere, at this Election, for the Borough [*or* County] of _____, either in this or any other Division ?

When the Elector himself applies for a ballot paper, and it appears that someone else has voted in his name, the Returning Officer will give him a second paper of a different colour, and it will be marked by such officer as a "Tendered Vote." Questions as to its acceptance or rejection must be decided by the Returning Officer, or, in case of scrutiny, by the Presiding Judges.

14. DECLARATION BY CANDIDATE AS TO EXPENSES.

MUNICIPAL ELECTIONS (CORRUPT AND ILLEGAL PRACTICES) ACT, 1884.

I, _____, having been a Candidate at the Election of Councillor for the Borough [*or* Ward] of _____, on the _____ day of _____ [and my Agents do hereby solemnly and sincerely declare that I have paid _____] for my expenses at the said Election, and that, except as aforesaid, I have not, and to the best of my knowledge and belief, no person, nor any club, society, or association, has on my behalf, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said Election.

And I further solemnly and sincerely declare that, except as aforesaid, no money, security, or equivalent for money, has to my knowledge or belief been paid, advanced, given, or deposited by anyone to or in the hands of myself, or any other person, for the purpose of defraying any expenses incurred on my behalf on account of or in respect of the conduct or management of the said Election.

And I further solemnly and sincerely declare that I will not at any future time make or be a party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be a party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expenses.

(Signature of Declarant) C.D.

Signed and declared by the above-named Declarant on
the day of before me.

(Signed) E.F.,
Justice of the Peace for .

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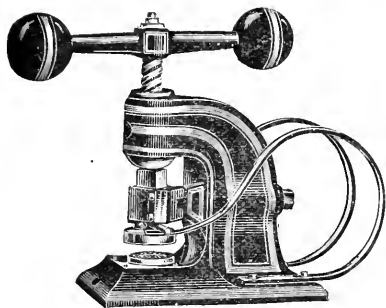
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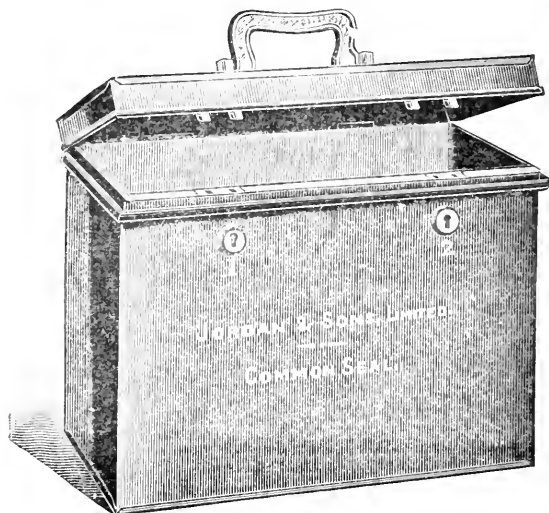


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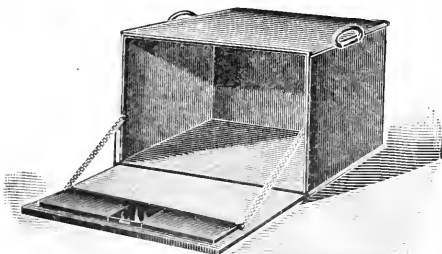
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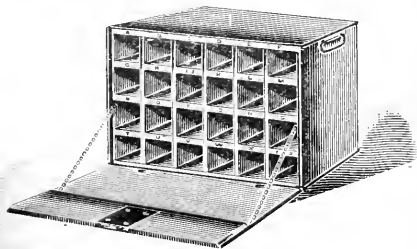


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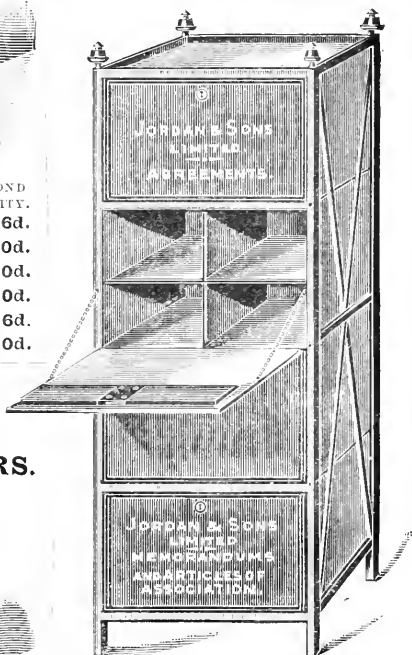


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